

THE ALL ENGLAND LAW REPORTS

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Tables and Index 1984

Cases reported and considered
Practice directions and notes
Statutes considered
Words and phrases considered
Subject index

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Introduction

The Tables and Index 1984 covers all the cases reported in the three volumes of the All England Law Reports for 1984.

The tables and index consists of five sections:

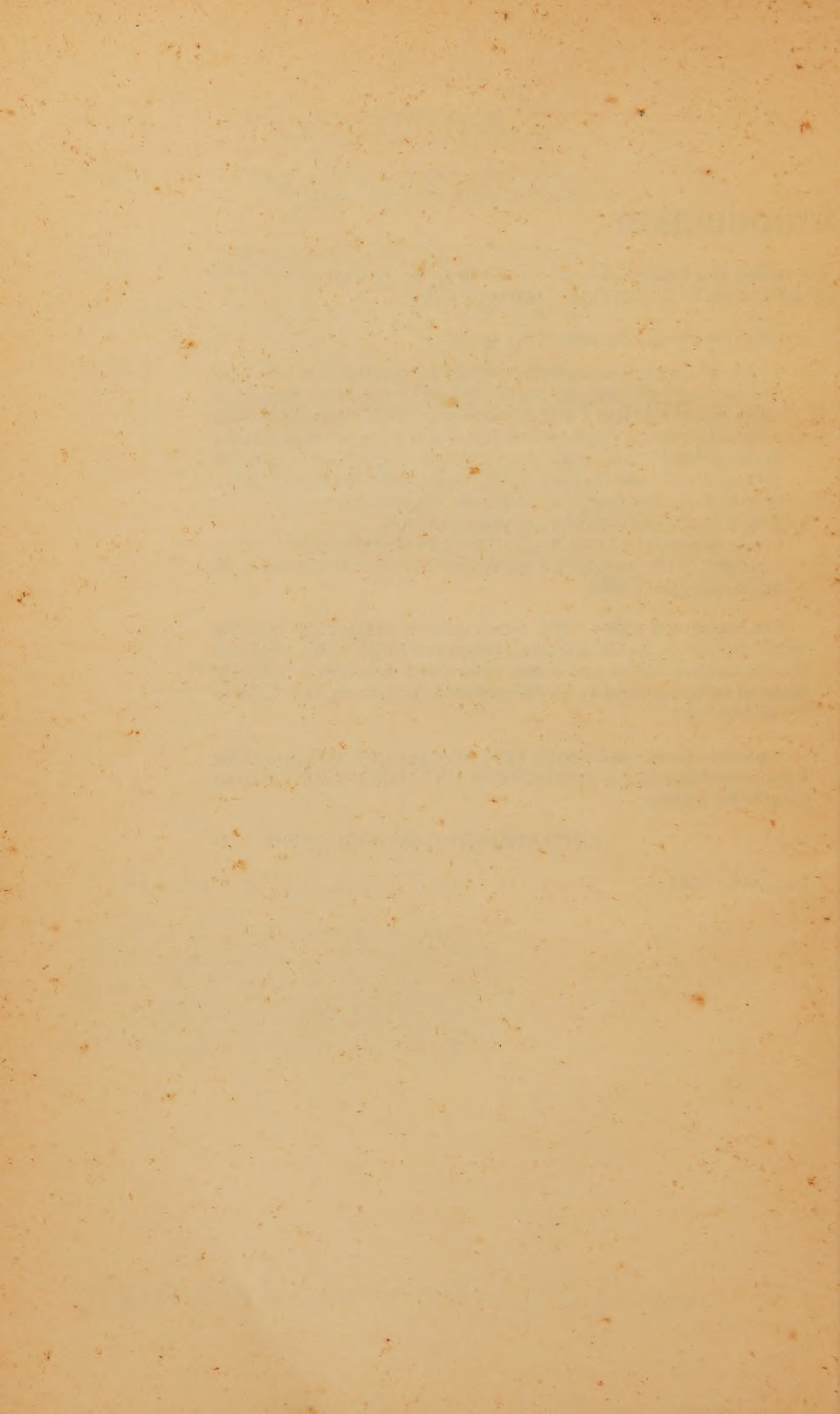
- a table of cases reported and judicially considered; this table lists alphabetically all cases reported in the All England Law Reports in 1984, and in addition it lists all cases of any date which have been reported in the All England Law Reports and the All England Law Reports Reprint and which were judicially considered, ie applied, distinguished, overruled and so on, in cases reported during 1984
- a table of practice directions and notes issued in 1984
- a table of statutes judicially considered in 1984
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- a subject index, including a full system of cross-references, of all cases reported in 1984.

The Tables and Index 1984, when used in conjunction with the three volumes of the Consolidated Tables and Index 1936-1981 and the Cumulative Tables and Index 1982-1983, provides a complete index of cases reported in the All England Law Reports from 1936 to the end of 1984.

The index is separate from the 1984 volumes of the All England Law Reports and should therefore *not* be sent in for binding with the loose parts of the reports.

BUTTERWORTH LAW PUBLISHERS LTD

December 1984



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House of Lords. *See* **House of Lords** (Leave to appeal—Petition for leave to appeal).

Respondent's notice—

Court of Appeal. *See* **Court of Appeal** (Respondent's notice).

Summary judgment—

Practice. *See* **Practice** (Summary judgment—Appeal).

Wardship—

Practice. *See* **Ward of court** (Practice—Appeal).

ARBITRATION

Arbitrator—

Jurisdiction—

Power to order consolidated hearing of disputes referred to arbitration under different agreements—Whether arbitrator having power to order consolidated hearing without consent of all the parties. **Oxford Shipping Co Ltd v Nippon Yusen Kaisha, The Eastern Saga** [1984] 3 835, QBD.

Award—

Appeal—

Leave to appeal against award. *See* **Award—Leave to appeal against award, post**.

Enforcement—

Foreign award—Enforceability—Whether to be enforceable award must post-date foreign state becoming a party to convention—Arbitration Act 1975, s 3. **Kuwait Minister of Public Works v Sir Frederick Snow & Partners (a firm)** [1984] 1 733, HL.

Interest—

Damages—Power of arbitrator to award interest—Claim for interest on payments made late but before commencement of arbitration—Whether interest can be awarded by way of damages at common law—Whether interest can be awarded by way of damages under Admiralty jurisdiction—Whether interest on interest can be awarded. **President of India v La Pintada Cia Navigacion SA** [1984] 2 773, HL.

Leave to appeal against award—

Factors to be considered by court when deciding whether to grant leave—Award involving complex question of EEC law—Arbitration Act 1979, s 1. **Bulk Oil (Zug) AG v Sun International Ltd** [1984] 1 386, CA.

Factors to be considered by court when deciding whether to grant leave—Award affecting parties' rights and involving conflict of judicial opinion—Judge concluding that arbitrator's decision probably right and refusing leave to appeal to High Court—Whether judge right to refuse leave to appeal—Arbitration Act 1979, s 1(3)(b). **Antaios Cia Naviera SA v Salen Rederierna AB, The Antaios** [1984] 3 229, HL.

Leave to appeal to Court of Appeal against grant or refusal of leave to appeal to High Court. *See* **Award—Leave to appeal to Court of Appeal against grant or refusal of leave to appeal to High Court, post**.

ARBITRATION (cont)

Award (cont)—

Leave to appeal to Court of Appeal against grant or refusal of leave to appeal to High Court—

When leave to appeal to Court of Appeal should be granted—Principles applicable to grant of leave—Arbitrator's decision raising substantial and arguable point of law—Judge concluding arbitrator's decision probably right—Judge requiring guidance on principles applicable to grant of leave—Whether judge should grant leave—Arbitration Act 1979, s 1(6A). **Antaios Cia Naviera SA v Salen Redierna AB, The Antaios** [1984] 3 229, HL.

Security for award—

Arrest of ship—Jurisdiction of Admiralty Court to arrest ship where plaintiff's purpose to obtain security in arbitration proceedings. *See* **Admiralty** (Jurisdiction—Action in rem—Arrest of ship—Plaintiff invoking jurisdiction to obtain security for award in arbitration proceedings).

Building contract—

Architect's certificate—

Jurisdiction. *See* **Building contract** (Architect—Architect's certificate—Jurisdiction—Arbitrator).

Nominated sub-contractor—

Right to arbitrate disputes with building owner. *See* **Building contract** (Sub-contractors—Nominated sub-contractor—Right to arbitrate disputes with building owner).

Foreign award—

Enforcement. *See* **Award—Enforcement—Foreign award, ante**.

Jurisdiction—

Arbitrator. *See* **Arbitrator—Jurisdiction, ante**.

Practice—

Leave to appeal against award. *See* **Award—Leave to appeal against award, ante**.

Stay of court proceedings. *See* **Stay of court proceedings, post**.

Stay of arbitration—

Action and arbitration proceedings side by side—

Overlap of issues—Whether arbitration should be stayed. **Northern Regional Health Authority v Derek Crouch Construction Co Ltd** [1984] 2 175, CA.

Stay of court proceedings—

Power of court to order stay—

Whether power limited to cases where court seised of matter after arbitration agreement made—Arbitration Act 1975, s 1(1). **The Tuyuti** [1984] 2 545, CA.

Refusal of stay—

Grounds for refusal—Poverty of plaintiff—Action by plaintiff—Action by plaintiff for damages for breach of contract of employment with defendant—Plaintiff summarily dismissed for incompetence—Contract entitling defendant to dismiss plaintiff for grave misconduct or wilful neglect—Contract providing for disputes to be referred to arbitration—Plaintiff's poverty alleged to have been caused by defendant's breach of contract of employment—Arbitration clause inserted in contract at request of plaintiff—Defendant not a rich body—Whether court proceedings should be stayed—Arbitration Act 1950, s 4. **Goodman v Winchester and Alton Railway plc** [1984] 3 594, CA.

ARBITRATOR

Generally. *See* **Arbitration** (Arbitrator).

ARCHITECT

Building contract. *See* **Building contract** (Architect).

ARREST

Arrest without warrant—

Reasonable cause—

Exercise of power of arrest—Constable arresting suspect in belief that confession more likely if suspect subjected to stress and pressure of arrest—Whether proper exercise of power of arrest—Whether constable properly exercising discretion—Whether belief that suspect might confess if arrested an extraneous consideration in exercise of discretion to arrest—Criminal Law Act 1967, s 2(4). **Holgate-Mohammed v Duke** [1984] 1 1054, HL.

Ship—

Jurisdiction—

Action in rem. *See* **Admiralty** (Jurisdiction—Action in rem—Arrest of ship).

ASSAULT

Constable—

Execution of duty. *See* **Police** (Assault on constable in execution of duty).

ASSIGNMENT

Lease—

Consent to assignment—

Sale of land. *See* **Sale of land** (Leasehold interest—Consent to assignment).

ATTEMPT

Crime. *See* **Criminal law** (Attempt).

ATTENDANCE ALLOWANCE

Social security. *See* **National insurance** (Attendance allowance).

ATTORNEY GENERAL

Relator action—

Housing association—

Persons conducting inquiry into housing association suing in own name—Whether such persons bound to sue on relation of Attorney General—Housing Act 1974, s 19(2). **Ashby v Ebdon** [1984] 3 869, ChD.

AUTREFOIS CONVICT

See **Criminal law** (Autrefois convict).

AWARD

Arbitration—
Generally. *See* **Arbitration** (Award).

BAIL

Criminal proceedings—
Generally. *See* **Criminal law** (Bail).

BALTIME CHARTERPARTY

Time charterparty—
Exceptions. *See* **Shipping** (Time charterparty—Exceptions—Baltime charterparty).

BANK

Documentary credit—
Irrevocable credit—
Injunction prohibiting payment—Matters to be considered. *See* **Injunction** (Ex parte injunction—
Matters to be considered before granting injunction—Injunction prohibiting payment of
irrevocable letter of credit etc).

BANKRUPTCY

Adjournment of bankruptcy proceedings—
Practice. *See* **Practice**—Adjournment of bankruptcy proceedings, *post*.

Bankruptcy notice—

Issue—

Leave of court—Proceedings against partnership firm—Petition founded on judgment debt—
Whether leave of court required before issue of notice against firm—Whether bankruptcy notice
'execution to enforce judgment'—RSC Ord 81, r 5(1), (4). *Re a debtor* (No 26 of 1983), *Re a debtor*
(No 72 of 1982) [1984] 2 257, ChD.

Service—

Substituted service—Whether substituted service required to be effected within two months of issue
of notice—Bankruptcy Rules 1952, rr 140, 154(1). *Re a debtor* (No 26 of 1983), *Re a debtor* (No
72 of 1982) [1984] 2 257, ChD.

Criminal bankruptcy order—

Generally. *See* **Criminal law** (Bankruptcy order).

Practice—

Adjournment of bankruptcy proceedings—

Discretion to adjourn—Conditions attached to adjournment—Registrar repeatedly adjourning
petitions because of possibility of debtor firm returning to solvency—Registrar making
adjournment subject to condition that debtor firm and partner pay into court specified amount to
be held on trust for creditors—Whether registrar properly exercising discretion to adjourn
bankruptcy proceedings—Bankruptcy Act 1914, s 109(2). *Re a debtor* (No 26 of 1983), *Re a*
debtor (No 72 of 1982) [1984] 2 257, ChD.

Transfer of proceedings—

Transfer to High Court—

Discretion of court to order transfer—Application for transfer made on grounds not connected with
convenient administration of bankrupt's estate—Sole purpose of application to enable solicitor to
receive remuneration for services to trustee in bankruptcy—Question of solicitor's remuneration
only outstanding matter in bankruptcy proceedings—Whether order for transfer should be made.
Re a debtor (No 26A of 1975) [1984] 3 995, ChD.

Trustee in bankruptcy—

Employment of solicitor by trustee—

Employment for proceedings in which trustee legally-aided—Sanction of committee of inspection not
obtained—Effect on solicitor's right to obtain costs—Whether committee's sanction necessary—
Whether court had power retrospectively to validate employment of solicitor—Bankruptcy Act
1914, ss 56, 83(3)—Bankruptcy Rules 1952, r 107. *Re a debtor* (No 26A of 1975) [1984] 3 995,
ChD.

BARRISTER

Fees—

Practice—

Family Division. *See* **Practice** (Family Division—Counsel's fees).

Queen's Bench Division. *See* **Practice** (Queen's Bench Division—Counsel's fees).

BID

Implied term. *See* **Contract** (Implied term—Bids).

BILL OF LADING

Generally. *See* **Shipping** (Bill of lading).

BINDING OVER

Crown Court. *See* **Crown Court** (Binding over).

BREACH OF CONFIDENCE

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BREACH OF CONTRACT

Damages—

Carriage of goods by sea. *See* **Shipping** (Carriage by sea—Damages for breach of contract).

BRITISH RAILWAYS BOARD

Accommodation works—

Duty to maintain works. *See* **Railway** (Accommodation works—Duty of railway authority to maintain
works).

BROKER

Insurance. *See* **Insurance** (Broker).

BUGGERY

Criminal proceedings. *See* **Criminal law** (Buggery).

BUILDER

Negligence—

Duty to take care. *See* Negligence (Duty to take care—Builder).

BUILDING

Agricultural building—

Exemption from rates. *See* Rates (Exemption—Agricultural buildings).

Building operations—

Lifting operation—

Undertaking building operation—Plant hire company hiring crane and driver to builder for purpose of building operation—Driver injured because crane not adequately secured or supported as required by regulations—Whether plant hire company 'undertaking' building operation—Whether plant hire company liable to driver for breach of statutory duty—Construction (Lifting Operations) Regulations 1961, regs 3(1), 11(1). *Williams v West Wales Plant Hire Co Ltd* [1984] 3 397, CA.

Statutory powers of local authority—

Duty of care in exercising powers. *See* Negligence (Duty to take care—Statutory powers—Act performed in exercise of powers—Local authority—Building operations).

Building works—

Value added tax—

Zero-rating. *See* Value added tax (Zero-rating—Building works).

Contract—

Generally. *See* Building contract.

Lifting operations—

Undertaking building operations—

Meaning. *See* Building operations—Lifting operation—Undertaking building operation, *ante*.

BUILDING CONTRACT

Architect—

Architect's certificate—

Arbitrator—Official referee—Jurisdiction—Arbitrator having jurisdiction under contract to open up and review architect's certificates and opinions—Whether official referee having same jurisdiction to open up and review architect's discretion. *Northern Regional Health Authority v Derek Crouch Construction Co Ltd* [1984] 2 175, CA.

Construction—

Condition requiring work to be executed according to specification and to satisfaction of employer's engineer—

Whether contractor required merely to execute work to satisfaction of employer's engineer—Whether contractor additionally required to execute work according to specification—BEAMA RC conditions (1956 edn), cl 4(i). *National Coal Board v Wm Neill & Son (St Helens) Ltd* [1984] 1 555, QBD.

Rules of construction for building contracts—

Whether building contracts to be construed differently from other contracts. *National Coal Board v Wm Neill & Son (St Helens) Ltd* [1984] 1 555, QBD.

Sub-contractors—

Nominated sub-contractor—

Right to arbitrate disputes with building owner—Sub-contractor entitled to arbitrate in name of main contractor against building owner—Whether sub-contractor should be restrained from arbitrating because action and arbitration between building owner and main contractor raising same issues. *Northern Regional Health Authority v Derek Crouch Construction Co Ltd* [1984] 2 175, CA.

BUILDING SCHEME

Restrictive covenant. *See* Restrictive covenant affecting land (Building scheme).

BUILDING SOCIETY

Advances—

Special advances—

Debts of any description (whether immediately repayable or not)—Unpaid interest and insurance premiums—Whether 'debts of any description (whether immediately repayable or not)' including unpaid interest and insurance premiums—Whether unpaid interest and insurance premiums to be taken into account when determining whether advance a special advance—Building Societies Act 1962, s 21(2). *R v Chief Registrar of Friendly Societies, ex p New Cross Building Society* [1984] 2 27, CA.

Chief Registrar—

Powers of chief registrar—

Power of revocation of designation—Extent of registrar's discretion to revoke designation of building society and to prohibit it from taking in deposits—Whether registrar's powers limited until actual failure by building society to comply with statutory requirements—House Purchase and Housing Act 1959, s 1, Building Societies Act 1962, s 48. *R v Chief Registrar of Friendly Societies, ex p New Cross Building Society* [1984] 2 27, CA.

BUSINESS

Premises—

Tenancy. *See* Landlord and tenant (Business premises).

C I F CONTRACT

Generally. *See* Sale of goods (C i f contract).

CAPITAL ALLOWANCES

Income tax. *See* Income tax (Capital allowances).

CAPITAL GAINS TAX

Disposal of assets—

Capital sum derived from asset notwithstanding no asset acquired by person paying sum—

Capital sum received from loss of asset—Termination of tenancy—Statutory compensation for termination of business tenancy—Tenant not able in law to prevent landlord from taking back premises—Whether compensation a capital sum derived from an asset—Whether compensation a capital sum received for loss of an asset—Landlord and Tenant Act 1954, s 37(1)(2)(a)—Finance Act 1965, s 22(3); *Drummond (Inspector of Taxes) v Brown* [1984] 2 699, CA.

Husband and wife—

Married woman living with her husband—Wife not resident in United Kingdom in year of assessment—Husband resident in United Kingdom for part of year of assessment—Husband making gift of shares to wife—Whether husband liable to capital gains tax on gift of shares—Whether husband resident in United Kingdom for year of assessment—Finance Act 1965, s 45(3), Sch 7, para 20—Income and Corporation Taxes Act 1970, s 42. *Gubay v Kingston (Inspector of Taxes)* [1984] 1 513, HL.

Tax avoidance scheme—

Tax deferment scheme—

Pre-arranged transactions—Self-cancelling transactions—Scheme designed to defer capital gains tax liability—Step in transaction having no commercial purpose other than deferment of tax—Taxpayers selling shares in X Ltd to Isle of Man company—Isle of Man company allotting its own shares to taxpayers as consideration—Isle of Man company selling shares in X Ltd to third party for cash—Whether taxpayers liable for capital gains tax on amount received from third party—Whether taxpayers' liability deferred until they disposed of their shares in Isle of Man company. *Furniss (Inspector of Taxes) v Dawson* [1984] 1 530, HL.

Tax deferment or tax avoidance scheme. *See* Tax avoidance scheme—Tax deferment scheme, *ante*.

CAPITAL TRANSFER TAX

Interest in possession—

Settlement—

Discretionary trust—Settlement providing for trustees to hold income of trust funds on protective trusts during life of settlor and to pay or apply income for benefit of settlor and his wife and children in their discretion—Settlor dying unmarried and without children—Whether settlement conferring on settlor a determinable life interest in trust funds—Whether settlor as sole member of class of beneficiaries not closed until his death having absolute entitlement to income as it accrued—Trustee Act 1925, s 33(1). *Re Trafford's Settlement, Moore v IRC* [1984] 1 1108, ChD.

Liability for tax—

Persons liable as executor or trustee—

Capital transfer tax arising on death—Executor's liability to pay tax arising on death—Whether executor personally liable—Finance Act 1975, s 27. *IRC v Stannard* [1984] 2 105, ChD.

Immunity from suit—Executor resident abroad—Testator dying resident and domiciled in England—Executor resident in Jersey—Whether executor immune from suit in England to recover capital transfer tax arising on death of testator. *IRC v Stannard* [1984] 2 105, ChD.

Settlement—

Interest in possession—

Person becoming entitled to interest in possession—Discretionary settlement—Moiety of fund for settlor's daughter and her children—Court order varying trusts of daughter's moiety directing trustees, on a child of settlor's daughter attaining 21, to hold capital and income on trust for beneficiaries then in being in such shares and on such trusts as they should at any time after court order appoint—Trustees exercising power in 1970 by appointing income to daughter absolutely prior to her eldest child attaining 21—Daughter's eldest child attaining 21 after introduction of capital transfer tax—Whether 1970 appointment giving daughter contingent interest carrying intermediate income in trust fund—Whether daughter becoming entitled to interest in possession on her eldest child attaining 21—Trustee Act 1925, s 31(1)(ii)—Finance Act 1975, Sch 5, para 6(2). *Swales v IRC* [1984] 3 16, ChD.

CARAVAN SITE

Local authority's duty to provide site. *See* Local authority (Caravan sites—Provision of caravan sites—Duty of local authority).

CARE

Child—

Local authority. *See* Child (Care—Local authority).

Proceedings—

Juvenile court. *See* Children and young persons (Care proceedings in juvenile court).

CARRIAGE BY ROAD

Generally. *See* Carriers.

CARRIAGE BY SEA

Generally. *See* Shipping (Carriage by sea).

CARRIAGE OF GOODS

Carriage by road—

See Contract. *See* Carriers (Contract—Carriage of goods).

CARRIERS

Contract—

Carriage of goods—

Freight—Claim for freight—Set-off—Counterclaim for loss caused by delay in delivery—Whether right of set-off for counterclaim for delay maintainable in carrier's claim for freight—Carriage of Goods by Road Act 1965, Sch, arts 32(4), 36. *R H & D International Ltd v IAS Animal Services Ltd* [1984] 2 203, QBD.

CASE STATED

Chancery Division—

Entry of appeals by way of case stated and similar proceedings—

Originating notice of motion—Entry for hearing of motion—Procedure—RSC Ord 55, rr 3, 4, Ord 56, r 10. *Practice Direction* [1984] 3 512, ChD.

CERTIORARI

Jurisdiction—

Crown Court—

Certiorari quashing Crown Court decision—Defendants convicted by magistrates and appealing to Crown Court against convictions—Crown Court quashing convictions—Irregularity in Crown Court procedure—Crown Court failing to hear case on merits by declining to receive all admissible evidence desired to be called by prosecutor—Power of Divisional Court to order Crown Court to rehear appeal—Whether further rehearing would put defendants in jeopardy a second time. **Weight v MacKay** [1984] 2 673, HL.

CHAMBERS

Companies Court—

Practice. *See* **Practice** (Companies Court—Chambers).

CHANCERY DIVISION

Appeal—

Appeal from master. *See* **Practice** (Chambers proceedings—Appeal from master).

Case stated—

Appeals by way of case stated. *See* **Case stated** (Chancery Division).

Chambers—

Generally. *See* **Practice** (Chambers proceedings).

Injunction—

Interlocutory—

Practice. *See* **Injunction** (Interlocutory—Practice—Chancery Division).

Interlocutory applications—

Practice. *See* **Practice** (Chancery Division—Interlocutory applications).

Interlocutory injunction—

Practice. *See* **Injunction** (Interlocutory—Practice—Chancery Division).

Parties—

Change of name. *See* **Practice** (Parties—Change of name).

Summary judgment. *See* **Practice** (Summary judgment).

CHARGE

Equitable—

Creation. *See* **Equity** (Charge—Creation of equitable charge).

Legal aid—

Charge on property recovered for deficiency of costs. *See* **Legal aid** (Charge on property recovered for deficiency of costs).

CHARGING ORDER

Generally. *See* **Execution** (Charging order).

CHARITY

Benefit to community—

Wilton Park—

Gift to institution known as 'Wilton Park'—Whether gift for purpose beneficial to community. *See* **Will**—Gift to institution known as 'Wilton Park', *post*.

Cy-près doctrine—

Occasion for applying property cy-près

Original purposes of charitable gift—Original purposes ceasing to provide suitable and effective method of using property—Meaning of 'original purposes'—Conditions attached to gift—Requirement that whole of capital and income of charitable gift be distributed within ten years of donor's death—Gift for charitable purposes generally—Inexpedient to distribute capital within ten years of donor's death—Whether court could approve cy-près scheme discharging trustee from obligation to distribute capital within ten years—Whether direction to distribute within ten years a 'purpose' of gift—Whether court having power under inherent jurisdiction to approve scheme discharging trustee from obligation to distribute—Charities Act 1960, s 13(1)(e)(iii). **Re J W Laing Trust** [1984] 1 50, ChD.

Education—

'Wilton Park'—

Gift to institution known as 'Wilton Park'—Whether gift for educational purpose. *See* **Will**—Gift to institution known as 'Wilton Park', *post*.

Uncertainty—

Gift to institution known as 'Wilton Park'. *See* **Will**—Gift to institution known as 'Wilton Park', *post*.

Will—

Gift to institution known as 'Wilton Park'—

No entity by name of Wilton Park—Expression 'Wilton Park' used to describe conferences organised by testator for persons capable of influencing public opinion in Western countries—Purposes of conference formation of informed international public opinion and promotion of greater co-operation in Europe and West—Whether gift for charitable purposes—Whether gift for educational purposes or purposes beneficial to community—Whether gift for political purposes—Whether gift too vague and uncertain—Whether charitable means of achieving non-charitable purposes of gift making gift charitable. **Re Koeppler's Will Trusts, Barclays Bank Trust Co plc v Slack** [1984] 2 111, ChD.

CHARTERPARTY

Time charterparty. *See* **Shipping** (Time charterparty).

CHIEF REGISTRAR OF FRIENDLY SOCIETIES

Building society—

Powers etc in respect of. *See* **Building society** (Chief Registrar).

CHILD

Access—

Generally. *See* **Minor** (Custody—Access).

CHILD (cont)

Care—

Local authority—

Divorce proceedings—Power to commit child to care of local authority. *See* Divorce (Custody—Care and control—Power to commit child to care of local authority).

Wardship proceedings—Jurisdiction of court to review decision of local authority—Wardship proceedings by natural parent—Proceedings by local authority for care order pending—Whether fact care proceedings merely pending and care order not yet in force affecting exercise of wardship jurisdiction—Whether rule that court will not exercise wardship jurisdiction merely to supervise local authority's discharge of care order duties applicable—Children and Young Persons Act 1969, s 1. **Re E (minors)(wardship : jurisdiction)** [1984] 1 21, CA.

Wardship proceedings—Jurisdiction of court to review decision of local authority—Wardship proceedings by natural parent—Care order—Discharge of care order—Juvenile court lacking power to impose conditions on discharge of care order—Mother applying for discharge of care order—Mother commencing wardship proceedings to enable High Court to supervise return of child to her on discharge of care order by juvenile court—Whether High Court should exercise wardship jurisdiction—Children and Young Persons Act 1969, ss 1, 2(1)(2). **Re J (a minor) (wardship : jurisdiction)** [1984] 1 29, CA.

Wardship proceedings—Scope of court's jurisdiction—Right to adopt course of action not contemplated by the parties. **Re E (SA) (a minor)(wardship)** [1984] 1 289, HL.

Proceedings in juvenile court—

Generally. *See* Children and young persons (Care proceedings in juvenile court).

Care and upbringing—

Divorce—

Arrangements required before decree absolute of divorce between parents. *See* Divorce (Decree absolute—Arrangements for care and upbringing of children).

Custody—

County court order—

Reasons for decision. *See* County court (Judgment or order—Reasons for decision—Custody cases).

Divorce proceedings—

Generally. *See* Divorce (Custody).

Generally. *See* Minor (Custody).

Financial provision—

Divorce proceedings—

Lump sum order—Generally. *See* Divorce (Financial provision—Lump sum order—Lump sum for children).

Illegitimate child—

Affiliation proceedings. *See* Affiliation.

Kidnapping—

Consent to being taken away. *See* Criminal law (Kidnapping—Consent to being taken away—Child).

Practice—

Welfare report. *See* Welfare—Welfare report, *post*.

Removal from jurisdiction—

Generally. *See* Minor (Removal outside jurisdiction).

Stepchild—

Family provision. *See* Family provision (Stepchild).

Ward of court. *See* Ward of court.

Welfare—

Welfare report—

Report of court welfare officer—Confidentiality of report—Notice to be indorsed on all reports. **Practice Direction** [1984] 1 827, FamD.

CHILDREN AND YOUNG PERSONS

Care proceedings in juvenile court—

Conditions to be satisfied before making order—

Probability of neglect etc having regard to fact that court has found neglect or ill-treatment of another child belonging to same household—Household—Child belonging to same household as another child in respect of whom care order made—Care order made in respect of older child—Parents divorcing and mother going to live with another man—Mother having younger child by that man—Whether both children belonging to same 'household'—Whether juvenile court entitled to make care order in respect of younger child because care order had already been made in respect of another child in same household—Children and Young Persons Act 1969, s 1(2)(a)(b). **R v Birmingham Juvenile Court, ex p N (an infant)**. [1984] 2 688, QBD.

Interim care order—

Application for renewal of order—Duty of court—Matters to be considered—Children and Young Persons Act 1969, s 2(10). **R v Birmingham Juvenile Court, ex p S, R v Birmingham Juvenile Court, ex p P** [1984] 1 393, QBD.

Duty to deal with care proceedings as expeditiously as possible. **R v Birmingham Juvenile Court, ex p S, R v Birmingham Juvenile Court, ex p P** [1984] 1 393, QBD.

Order for 28 days—How days calculated—Children and Young Persons Act 1969, s 20(1)(a). **R v Birmingham Juvenile Court, ex p S, R v Birmingham Juvenile Court, ex p P** [1984] 1 393, QBD.

CHOSE IN ACTION

Theft. *See* Criminal law (Theft—Property belonging to another—Chose in action).

CIVIL CONTEMPT

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CLINIC

Family planning clinic—

National Health Service. *See* National Health Service (Family planning clinics).

COAL MINING

Statutory duty—

Security of road and working place—

Working place—Fall of stone from roof during cutting run—Subsequent fall from roof while plaintiff inspecting cavity made by first fall—Plaintiff sustaining personal injuries—Whether accident occurring in 'working place'—Whether impracticable to avoid or prevent breach of statutory duty—Mines and Quarries Act 1954, ss 48(1), 157. **Hammond v National Coal Board** [1984] 3 321, CA.

CODE

Comprehensive statutory code. *See* **Statute** (Comprehensive statutory code).

COLLUSION

Divorce. *See* **Divorce** (Collusion).

COMMON MARKET

See **European Economic Community**.

COMMONS

Registration—

Disputed claims—

Reference to commissioner—Extent of inquiry by commissioner—Objection taken to registration of part of land—No objection taken to registration of remainder of land—Whether commissioner bound to inquire into validity of registration of whole of land—Commons Registration Act 1965, ss 5, 6(1). **Re West Anstey Common** [1984] 1 161, ChD.

COMPANY

Companies Court—

Practice. *See* **Practice** (Companies Court).

Compulsory winding up—

Attendance before registrar. *See* **Compulsory winding up**—Procedure—Attendance before registrar, *post*.

Company already in voluntary liquidation—

Right of contributory to compulsory winding-up order—Prejudice to contributory—Complaints that company made loans interest free and without security and that accounts not properly prepared—Whether voluntary liquidation should be allowed to continue—Companies Act 1948, s 310. **Re Zinotty Properties Ltd** [1984] 3 754, ChD.

Inability of company to pay debts—

Neglect to pay sum to creditor for three weeks after sum demanded—Petition to wind up company founded on neglect to pay sum demanded—Sum demanded disputed—Prior to demand company offering to pay petitioning creditor a sum exceeding £200 but less than sum demanded—Whether demand validly made—Whether petition should be dismissed—Companies Act 1948, s 223(a). **Re a Company** [1984] 3 78, ChD.

Just and equitable—

Company established on basis of trust and confidence of corporates—Break down of trust and confidence—Whether just and equitable to order winding up of company—Companies Act 1948, s 222(f). **Re Zinotty Properties Ltd** [1984] 3 754, ChD.

Liquidator—

Provisional liquidator. *See* **Compulsory winding up**—Provisional liquidator, *post*.

Order—

Notice—Notice of order—Publication of winding-up order in London Gazette—Whether publication constituting notice of winding up to all the world—Whether company's landlord having constructive notice of winding up by virtue of gazetting of winding-up order—European Communities Act 1972, s 9(3),(4). **Official Custodian of Charities v Parway Estates Ltd** [1984] 3 679, CA.

Petition by contributory—

Petition for winding up or for relief on ground of unfair prejudice—Dispute about ownership of shares—Petition also alleging unfair prejudice to member—Application for petition to be struck out—Whether application should be granted—Companies Act 1980, s 75. **Re Garage Door Associates Ltd** [1984] 1 434, ChD.

Petition by Secretary of State—

Secretary of State taking view that it is expedient in the public interest that company be wound up—Whether Secretary of State having power by implication to apply for appointment of provisional liquidator—Companies Act 1967, s 35. **Re Highfield Commodities Ltd** [1984] 3 884, ChD.

Procedure—

Attendance before registrar—Attendance on appointed day—Delay—Late attendance only allowed where good reason shown—Companies (Winding up) Rules 1949, r 33. **Practice Note** [1984] 2 678, ChD.

Proof and ranking of claims. *See* **Winding up**—Proof and ranking of claims, *post*.

Provisional liquidator—

Appointment—Power of court to make appointment—Circumstances in which exercisable—Winding-up petition presented on ground that expedient in public interest—Necessity of appointment—Companies Act 1948, s 238. **Re Highfield Commodities Ltd** [1984] 3 884, ChD.

Appointment—Undertaking in damages—Ex parte application for appointment of provisional liquidator—Secretary of State presenting winding-up petition on ground that expedient in public interest—Secretary of State not asserting proprietary claim of Crown—Application by Secretary of State for appointment of provisional liquidator—Whether Secretary of State required to give undertaking in damages—Whether Secretary of State to be treated as having proprietary claim—Companies Act 1967, s 35. **Re Highfield Commodities Ltd** [1984] 3 844, ChD.

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Director—

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Whether director and shareholder in total control of company capable of committing theft of company's property—Theft Act 1968, ss 1(1), 2(1)(b). **Attorney General's Reference (No 2 of 1982)** [1984] 2 216, CA.

Fraudulent trading—

Intent to defraud—

Obtaining credit where no reasonable prospect of company paying its debts when due or shortly thereafter—Whether affairs of company carried on with 'intent to defraud creditors'—Companies Act 1948, s 332. **R v Grantham** [1984] 3 166, CA.

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Admissibility of report as evidence—Interlocutory proceedings—Whether affidavit evidence founded on information contained in report can be used in interlocutory proceedings—Companies Act 1948, ss 165, 172—RSC Ord 41, r 5(2). **Savings and Investment Bank Ltd v Gasco Investments (Netherlands) BV** [1984] 1 296, ChD.

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Generally. *See* **Insurance**.

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Forfeiture—

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Relief—Purchase of shares of prejudiced members—Valuation of shares—Quasi-partnership company—Whether valuation should be on pro rata basis or at a discount—Whether purchase price should bear interest from date before purchase ordered—Companies Act 1980, s 75(3), (4)(d). **Re Bird Precision Bellows Ltd** [1984] 3 444, ChD.

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Purchase of shares of members who are unfairly prejudiced. *See* **Member—Unfair prejudice to member's interests—Relief—Purchase of shares of prejudiced members, ante**.

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Invitation to make sealed bids for shares—Implied term. *See* **Contract** (Implied term—Bids—Sealed bids—Contract for sale of shares).

Invitation to make sealed bids for shares—Whether an offer or an invitation to treat. *See* **Contract** (Offer and acceptance—Invitation to treat—Contract for sale of shares—Invitation to make bids for shares).

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Signature of duly authorised agent of company—Signature of officer or employee of company acting in the course of his duties—Whether signature of company. **UBAF Ltd v European American Banking Corp** [1984] 2 226, CA.

Fraudulent misrepresentation. *See* **Misrepresentation** (Fraudulent misrepresentation—Company—Signature of company).

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Validity—Quorum—Articles providing for quorum of two—Transfer of share to one of two shareholders at meeting registered by company secretary at time when company having no directors—Meeting passing resolution for voluntary winding up of company—Whether transfer of share validly registered—Whether meeting quorate—Whether winding-up resolution valid. **Re Zinotty Properties Ltd** [1984] 3 754, ChD.

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Compulsory winding up. *See* **Compulsory winding up, ante**.

Fraudulent trading—

Intent to defraud—Meaning. *See* **Fraudulent trading—Intent to defraud, ante**.

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Rule against double proof—Company taking out bank bond against insolvency—Banks paying over money under bonds when company becoming insolvent—Money used to pay creditors in part—Creditors assigning claims to third party—Banks proving for debt under bonds—Third party proving for debt under assignments—Whether both proofs admissible—Whether banks or third party having better right of proof if only one proof admissible. **Barclays Bank Ltd v TOSG Trust Fund Ltd** [1984] 1 1060, HL.

COMPANY (cont)

Winding up (cont)—

Proof of debts—

Credit for amounts received before proof submitted—Proof against insolvent guarantor—Whether credit to be given for payments from principal debtor received before proof submitted—Whether credit to be given for payments made or received after proof made. **Re Amalgamated Investment and Property Co Ltd** [1984] 3 272, ChD.

Interest on debt—Loan agreement providing for payment and capitalisation of interest—Amount and rate of interest provable in winding up—Bankruptcy Act 1914, s 66(1)—Companies Act 1948, s 317. **Re Amalgamated Investment and Property Co Ltd** [1984] 3 272, ChD.

Interest on debt—Loan agreement providing for payment of interest—Date for determining amount of interest payable—Whether interest ceasing to run at date of presentation of winding-up petition or at date of winding-up order. **Re Amalgamated Investment and Property Co Ltd** [1984] 3 272, ChD.

Voluntary winding up. *See* Voluntary winding up, *ante*.

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Disturbance. *See* Landlord and tenant (Business premises—Compensation for disturbance).

Compulsory purchase—

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Displacement from land—

Home loss payment—

Displacement from dwelling—Land acquired by local authority and held by local authority for purpose for which it was acquired—Displacement of person from dwelling on land in consequence of carrying out of redevelopment on the land—Land acquired by local authority for development—Local authority subsequently selling land to third party for development—Sale necessitating clearance of land and displacement of occupier from dwelling on land—Whether occupier entitled to home loss payment—Whether displacement in consequence of 'redevelopment of land' or sale by local authority—Whether at time of displacement local authority holding land for purpose for which they acquired it—Land Compensation Act 1973, s 29(1)(c). **Greater London Council v Holmes** [1984] 2 743, QBD.

Land—

Compulsory purchase. *See* Compulsory purchase (Compensation).

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Charge on property recovered for deficiency of costs. *See* Legal aid (Charge on property recovered for deficiency of costs—Property recovered or preserved in proceedings—Compromise of proceedings).

Offer made before hearing—

Refusal of offer—

Effect of refusal on costs—Offer made in 'without prejudice' letter expressly reserving right to refer to it on question of costs after judgment if offer refused—Whether letter admissible on issue of costs after judgment in action. **Cutts v Head** [1984] 1 597, CA.

COMPULSORY PURCHASE

Compensation—

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Land acquired by agreement—Land—Council tenancy—Tenant surrendering tenancy to local authority to enable authority to have vacant possession to carry out improvements—Whether surrender of tenancy constituting acquisition of 'land' by local authority—Land Compensation Act 1973, s 37(3)(c). **R v Islington London BC, ex p Knight** [1984] 1 154, QBD.

COMPULSORY WINDING UP

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Restraint of foreign proceedings—

Circumstances in which court will restrain foreign proceedings—No alternative forum in England or elsewhere—Whether unconscionable for plaintiff to bring proceedings in foreign court—Whether injunction should be granted restraining plaintiff from continuing foreign proceedings. **British Airways Board v Laker Airways Ltd** [1984] 3 39, HL.

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Enforcement proceedings—Exceptions—Commercial transactions—Default judgment obtained against foreign sovereign state in respect of claim for sale of goods—Plaintiff obtaining garnishee orders nisi to attach moneys in foreign state's accounts at London banks—Ambassador certifying that accounts used or intended for use in day-to-day running expenses of embassy in London—Whether funds used for such running expenses constituting funds used for commercial transactions—Whether bank accounts 'property'—Whether foreign state entitled to claim immunity from enforcement in respect of accounts—State Immunity Act 1978, ss 3(1)(3), 13(2)(4), 17(1). *Alcom Ltd v Republic of Colombia* [1984] 2 6, HL.

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Trinidad and Tobago. *See* Trinidad and Tobago.

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Seeking business—

Advertisement indicating willingness of advertiser to provide credit—Form and content of advertisement—Price sticker on car displaying name and logo of well-known finance company—Whether sticker 'indicating' that company willing to provide credit—Consumer Credit Act 1974, ss 43(1), 167(2)—Consumer Credit (Advertisements) Regulations 1980. *Jenkins v Lombard North Central plc* [1984] 1 828, QBD.

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Breach of court order—

Defence of *autrefois acquit*—Availability in civil contempt proceedings—Plaintiff issuing defective notice of motion to secure committal—Judge at outset of hearing dismissing motion by reason of irregularity and making no order on it—Plaintiff issuing fresh notice complying with rules—Whether defendant entitled to defence of *autrefois acquit*—RSC Ord 52, r 4. *Jelson (Estates) Ltd v Harvey* [1984] 1 12, ChD & CA.

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Magistrates' court—

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Sequestration—

Position of third parties in relation to writ of sequestration—

Third party not holding contemnor's assets—Trade union fined for contempt of court and writ of sequestration issued—Request by sequestrators to union's auditors for information regarding assets—Auditors declining to comply with request—Whether auditors under duty to disclose information to sequestrators. *Messenger Newspapers Group Ltd v National Graphical Association* [1984] 1 293, CA.

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Damages. *See* Damages for breach, *post*.

Election whether to affirm or rescind—

Contract for sale of leasehold property—Vendor having defective title—Purchaser learning of defect but not aware of right to rescind—Purchaser paying part of purchase price and taking possession of property as vendor's licensee—Purchaser later purporting to rescind—Whether purchaser losing right to rescind—Whether purchaser electing to affirm or rescind contract—Whether knowledge of legal right to elect necessary precondition to making effective election—Whether election could be inferred from conduct. *Peyman v Lanjani* [1984] 3 703, CA.

CONTRACT (cont)

Breach (cont)—

Waiver—

Conduct amounting to waiver—Contract for sale of leasehold property—Vendor having defective title—Purchaser learning of defect but not aware of right to rescind—Purchaser paying part of purchase price and taking possession of property as vendor's licensee—Purchaser later purporting to rescind—Whether purchaser estopped by conduct from denying that he had affirmed contract—Whether purchaser making unequivocal representation to vendor—Whether vendor, acting on representation to his detriment. **Peyman v Lanjani** [1984] 3 703, CA.

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Damages for breach—

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Loss of profit or wasted expenditure—Whether plaintiff having unfettered choice to claim under either head. **CCC Films (London) Ltd v Impact Quadrant Films Ltd** [1984] 3 298, QBD.

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Onus of proof—Defendant's breach preventing plaintiff from exploiting contract—Impossible to determine whether plaintiff would have recouped expenditure if he had been able to exploit contract—Whether onus on plaintiff to show expenditure would have been recouped or on defendant to show that it would not. **CCC Films (London) Ltd v Impact Quadrant Films Ltd** [1984] 3 298, QBD.

Wrongful dismissal—

Employee dismissed without receiving notice or payment in lieu following employer's insolvency—Employee receiving social security benefits—Employee receiving payment from Secretary of State out of Redundancy Fund—Whether Secretary of State entitled to deduct benefits from payment—Whether employee under duty to mitigate loss—Employment Protection (Consolidation) Act 1978, ss 49(1), 50, 51, 122(1)(3), Sch 3. **Westwood v Secretary of State for Employment** [1984] 1 874, HL.

Taxation—Damages awarded subject to taxation—Whether burden of taxation in hands of plaintiff too remote—Whether court to award sum to compensate actual or net loss. **Shove v Downs Surgical plc** [1984] 1 7, QBD.

Employment—

Generally. *See* Master and servant (Contract of service).

Illegality—

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Generally. *See* Insurance (Illegality).

Implied term—

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Sealed bids—Contract for sale of shares—Invitation to make sealed competitive bids for shares—Bid of \$101,000 in excess of any other offer—Whether implied term in invitation to bid excluding bids framed by reference to other bids. **Harvela Investments Ltd v Royal Trust Co of Canada (CI) Ltd** [1984] 2 65, ChD.

Lease—

Repair. *See* Landlord and tenant (Implied covenant to repair).

Invitation to treat—

Offer and acceptance. *See* Offer and acceptance—Invitation to treat, *post*.

Master and servant. *See* Master and servant (Contract of service).

Offer and acceptance—

Invitation to treat—

Contract for sale of shares—Invitation to make bids for shares—Party inviting bids stating that it bound itself to accept highest bid—Whether invitation to bid an offer or invitation to treat—Whether submission of bid providing sufficient consideration to found contract. **Harvela Investments Ltd v Royal Trust Co of Canada (CI) Ltd** [1984] 2 65, ChD.

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No contract concluded—Steel manufacturer negotiating with contractor to make and supply cast iron products for construction work—Contractor requesting manufacturer to commence production in anticipation of contract being entered into—Manufacturer making and supplying cast iron products—Parties unable to agree on contractual terms—No contract concluded—Whether contractor entitled to value of products on a quantum meruit. **British Steel Corp v Cleveland Bridge & Engineering Co Ltd** [1984] 1 504, QBD.

Repudiation—

Election whether to accept repudiation—

Charterparty—Owners chartering vessel under time charter to charterers for period of two years—After one year of contract vessel off-hire for six months while repairs carried out—Charterers repudiating charterparty on being informed that vessel ready for sail after repairs—Owners refusing to accept repudiation and maintaining vessel with crew ready to sail until expiry of charterparty—Whether owners having unfettered election to refuse to accept repudiation—Whether owners allowed to enforce contractual rights according to strict legal terms—Whether owners' conduct more than merely unreasonable in refusing to accept repudiation—Whether owners having legitimate interest in performing contract rather than claiming damages. **Clea Shipping Corp v Bulk Oil International Ltd** [1984] 1 129, QBD.

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Generally. *See* Breach—Election whether to affirm or rescind, *ante*.

CONTRACT (cont)

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Sale of land—

Specific performance. *See* **Specific performance** (Sale of land).

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Generally. *See* **Master and servant** (Contract of service).

Specific performance—

Generally. *See* **Specific performance**.

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Nature of contract—

Vasectomy—Whether surgeon can contract to produce particular medical result when result depending on healing of human tissue. **Thake v Maurice** [1984] 2 513, QBD.

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Breach—Surgery—Vasectomy—Patient told that vasectomy resulting in irreversible sterility—Patient thereby induced to have vasectomy—Patient not warned of risk that effect of vasectomy might be naturally reversed—Patient regaining fertility—Patient's wife becoming pregnant—Whether surgeon in breach of warranty. **Thake v Maurice** [1984] 2 513, QBD.

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Spent conviction—

Rehabilitation of offenders. *See* **Rehabilitation** (Rehabilitation of offenders—Spent conviction).

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Judicial review—

Jurisdiction of High Court—Error of law committed by coroner within jurisdiction—Extent of jurisdiction to review inquest proceedings. **R v Greater Manchester Coroner, ex p Tal** [1984] 3 240, QBD.

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Jurisdiction—

Trial judge giving leave to appeal—Whether jurisdiction of Court of Appeal restricted to interfering with judge's order on grounds of failure to exercise discretion at all or because of unjudicial exercise of discretion—Whether Court of Appeal entitled to review judge's discretion on usual grounds. **Alltrans Express Ltd v CVA Holdings Ltd** [1984] 1 684, CA.

Security for costs. *See* **Security for costs—Appeal, post**.

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Vouching bill of costs. *See* **Vouching bills of costs, post**.

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Offer made before hearing—

Refusal of offer—Effect of refusal on costs. *See* **Compromise** (Offer made before hearing—Refusal of offer—Effect of refusal on costs).

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County court. *See* **County court** (Costs—Discretion).

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New tenancy of business premises—

Inclusion of term that tenant pay landlord's costs in respect of preparation of lease. *See* **Landlord and tenant** (Business premises—Terms of new tenancy—Inclusion of term that tenant pay landlord's costs in respect of preparation of lease).

Legal aid—

Deficiency of costs—

Charge on property recovered for deficiency of costs. *See* **Legal aid** (Charge on property recovered for deficiency of costs).

COSTS (cont)

Legal aid (cont)—

Generally. *See Legal aid.*

Taxation of costs. *See Legal aid* (Taxation of costs).

Order for costs—

Discretion—

Plaintiff obtaining leave to enter summary judgment against defendant for damages to be assessed—Judge assessing damages at nominal sum only—No payment into court by defendant—Whether absence of payment in entitling judge to treat plaintiff as successful party and to award him costs of hearing to assess damages—Whether judge placing undue weight on absence of payment in—Whether defendant entitled to costs of hearing to assess damages—RSC Ord 14. *Alltrans Express Ltd v CVA Holdings Ltd* [1984] 1 685, CA.

Payment into court—

Acceptance—

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Amount of security—

Principles for determining amount of security—Discretion—Exercise of discretion—Full indemnity or discounted estimate of party and party costs—Security normally to be on full indemnity basis—Discount to be made to allow for court's estimate of reduction by taxing officer—Relevance of possibility of settlement where application for security made early in proceedings—RSC Ord 23, r 1. *Procon (GB) Ltd v Provincial Building Co Ltd* [1984] 2 368, CA.

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Approach of Court of Appeal—Court of Appeal normally accepting judge's exercise of discretion unless satisfied he went wrong—RSC Ord 23, r 1. *Procon (GB) Ltd v Provincial Building Co Ltd* [1984] 2 368, CA.

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Plaintiff obtaining leave to enter summary judgment against defendant for damages to be assessed. *See Order for costs*—Discretion—Plaintiff obtaining leave to enter summary judgment against defendant for damages to be assessed, *ante*.

Taxation—

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Interlocutory fees—Accident cases—Scale of fees to be allowed on taxation. *Practice Direction* [1984] 1 848, Sup Ct Taxing Office.

Delay—

Delay in commencement of taxation proceedings—Delay of more than a year—No justification for delay—No notice of intention to proceed given—Master granting extension of time but disallowing costs of taxation proceedings—No particular prejudice shown—Whether mere delay amounting to prejudice—Whether inconsistent to grant extension of time and then disallow costs of taxation—Whether on review court should interfere with master's decision—Whether only nominal sum for costs should be allowed—RSC Ord 62, rr 7(5), 8(6), 16, 35. *Pamplin v Fraser (No 2)* [1984] 2 693, QBD.

Delay in commencement of taxation proceedings—Delay of more than a year—Whether order for costs to be taxed interlocutory—Whether notice of intention to proceed required after delay of more than a year—Whether application for extension of time must be made before taxation—Whether taxation after delay of more than a year where notice of intention to proceed not given should be set aside for irregularity—RSC Ord 3, r 6, Ord 62, rr 16, 21. *Pamplin v Fraser (No 2)* [1984] 2 693, QBD.

Taxation referred to senior executive officer. *See Taxation*—Taxation referred to senior executive officer—Delay, *post*.

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Litigant appearing in person—

Claim for costs for expenditure of time in appearing in court—Claim for costs for expenditure of time in preparing case—Litigant suffering pecuniary loss—Litigant allowed two-thirds of amount allowed to a solicitor for similar work—High Court proceedings—Whether litigant allowed notional costs of instructing counsel—Whether litigant allowed notional counsel's fees—Whether litigant can claim costs based on amount allowed to a solicitor if part of preparatory done in leisure time—Whether in calculating notional amount allowable to a solicitor taxation should proceed on basis of time a solicitor would spend or time actually spent by litigant—RSC Ord 62, r 28A(1)(2)(3). *Hart v Aga Khan Foundation (UK)* [1984] 2 439, CA.

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Postal facilities—Acknowledgment of receipt of papers. *Practice Direction* [1984] 1 940, Sup Ct Taxing Office.

Review of taxation—

Procedure—Queen's Bench Division—RSC Ord 62, r 35. *Practice Note* [1984] 2 288, QBD.

Taxation referred to senior executive officer—

Delay—Prejudicial delay or delay where notice of intention to proceed required but not given—Matter to be adjourned to taxing master if opposing party applying for order for nominal costs only or for whole of costs to be disallowed—RSC Ord 62, rr 7(5), 13. *Pamplin v Fraser (No 2)* [1984] 2 693, QBD.

Time limit—

Application for taxation out of time—Notice of intention to proceed to be given—Objection to extension of time to be raised as preliminary point on substantive hearing of taxation—Legal aid taxation—Legal Aid Act 1974, Sch 2—RSC Ord 3, r 6, Ord 62, rr 7(5), 21(3)(4)—Legal Aid (General) Regulations 1980, reg 104. *Practice Direction* [1984] 1 873, Sup Ct Taxing Office.

COSTS (cont)

Taxation (cont)—

Time limit (cont)—

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Vouching bills of costs. *See* Vouching bills of costs, *post*.

Vouching bills of costs—

Certificate as evidence of payment of disbursement not exceeding £200—

Practice. **Practice Direction** [1984] 1 679, Sup Ct Taxing Office.

COTTON SPINNING MILL

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COUNCIL HOUSE

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COUNSEL

Duty—

Constitution of court—

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COUNTY COURT

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Application for leave—Ex parte application—Application made some weeks after hearing—Advisability that application be dismissed—Application to be adjourned to allow other party to be heard if judge minded to grant leave. **Aveyard v Aveyard** [1984] 1 159, CA.

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Discretion—

Exercise of discretion—Payment into court in settlement of action and counterclaim—Plaintiff receiving notice of payment in from county court too late to give notice of acceptance not less than three days before hearing—Plaintiff accepting payment in promptly before trial—Late notice of acceptance necessitating application to court for payment out—Plaintiff also applying for costs up to date of payment in—Judge making no order as to costs—Whether judge entitled to exercise discretion by not awarding costs—CCR 1981, Ord 11, rr 3, 5(2), Ord 38, r 1. **Seacroft Hotel (Teignmouth) Ltd v Goble** [1984] 3 116, CA.

Judgment or order—

Enforcement—

Enforcement in High Court—Practice. **Practice Direction** [1984] 3 155, QBD.

Enforcement in High Court—Practice. **Practice Direction** [1984] 3 1002, QBD.

Reasons for decision—

Custody cases—Importance of judgment stating findings of fact and reasons for decision—Judgment necessary in event of appeal—Even if no appeal judgment necessary for possibility of future application for variation of custody order—When judge gives no reasons but states at hearing that he will give them on request any request for reasons should be dealt with without delay. **Hoey v Hoey** [1984] 1 177, CA.

Jurisdiction—

Rent restriction. *See* **Rent restriction** (County court—Jurisdiction).

Landlord and tenant—

Arrears of rent—

Forfeiture of lease. *See* **Landlord and tenant** (Forfeiture of lease—Arrears of rent—County court action).

Rent restriction. *See* **Rent restriction** (County court).

Order—

Enforcement. *See* Judgment or order—Enforcement, *ante*.

Reasons for decision. *See* Judgment or order—Reasons for decision, *ante*.

Payment into court—

Stay of proceedings—

Generally. *See* **Practice** (Payment into court—Stay of proceedings).

Practice—

Transfer of action from High Court to county court. *See* Transfer of action—Transfer from High Court, *post*.

Rent restriction. *See* **Rent restriction** (County court).

Stay of proceedings—

Payment into court. *See* **Practice** (Payment into court—Stay of proceedings).

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Murder. *See* **Criminal law** (Murder—Diminished responsibility).

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Company—

Generally. *See* **Company** (Director).

DISABLED PERSON

Invalid care allowance in respect of disabled person. *See* **National insurance** (Invalid care allowance).

DISABLEMENT BENEFIT

Damages for personal injuries—

Deduction of disablement benefit. *See* **Damages** (Personal injury—Loss of earnings—Deduction of industrial injury, disablement, sickness or invalidity benefit accruing to injured person).

DISCOVERY

Discovery against persons not parties to proceedings—

Servants or agents of corporation which was a party to proceedings—

Plaintiff commencing action against polytechnic for injunctive relief against picketing students who prevented him from entering polytechnic—Plaintiff obtaining injunction against polytechnic—Plaintiff obtaining further order against staff of polytechnic requiring them to identify students who continued picketing in breach of injunction—Staff not parties to proceedings—Whether court having jurisdiction to order discovery against staff—Whether staff mere witnesses—Whether staff as servants or agents of polytechnic liable to comply with order for discovery. **Harrington v North London Polytechnic** [1984] 3 666, CA.

Dishonesty of solicitor—

Intervention by Law Society in solicitor's practice. *See* **Solicitor** (Dishonesty—Intervention by Law Society in solicitor's practice—Discovery of documents).

Privilege—

Law Society—

Intervention in solicitor's practice where dishonesty suspected. *See* **Solicitor** (Dishonesty—

Intervention by Law Society in solicitor's practice—Discovery of documents—Privilege).

Waiver of privilege—

Defendant giving notice before trial to claimant of intention to adduce contemporaneous document as evidence at trial—Document a memorandum from defendant to solicitor—Defendant's counsel producing memorandum at trial and cross-examining claimant's witness as to its veracity—Defendant not obtaining court's leave to admit memorandum—Claimant's counsel contending privilege waived in confidentiality of memorandum and consequently in all documents relating to topics in memorandum—Claimant's counsel applying for discovery of all related documents—Whether pre-trial notice amounting to waiver of whole memorandum—Whether cross-examination sufficient to introduce memorandum as evidence—Whether waiver of privilege extending to all documents relating to topics contained in memorandum. **General Accident Fire and Life Assurance Corp Ltd v Tanter** [1984] 1 35, QBD.

DISCRIMINATION

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Generally. *See* **Race relations**.

Sex—

Generally. *See* **Sex discrimination**.

DISHONESTY

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DISMISSAL

Public authority employee—

Judicial review—

Availability of remedy. *See* **Judicial review** (Availability of remedy—Employee of public authority—Dismissal of employee).

DISTRICT PLAN

Local planning authority. *See* **Town and country planning** (District plan).

DISTURBANCE

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DIVISIONAL COURT

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Criminal cause or matter. *See* **Criminal law** (Appeal—Criminal cause or matter—Decision of Divisional Court—Appeals to Court of Appeal).

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Jurisdiction. *See* **Certiorari** (Jurisdiction).

Precedent. *See* **Precedent**.

DIVORCE

Children—

Care and upbringing—

Arrangements required before decree absolute of divorce between parents. *See* Decree absolute—

Arrangements for care and upbringing of children, *post*.

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Lump sum for children—

Generally. *See* Financial provision—Lump sum order—Lump sum for children, *post*.

Practice. *See* Practice—Children, *post*.

Collusion—

Agreements and arrangements—

Enforcement—Matrimonial Causes Act 1973, s 1(2)(d). *Sutton v Sutton* [1984] 1 168, ChD.

Custody—

Care and control—

Power to commit child to care of local authority—Exceptional circumstances making it impracticable or undesirable for child to be entrusted to either parent—Local authority intending to leave child temporarily in care of parent to see if rehabilitation possible—Whether circumstances making it undesirable to 'entrust' child to parent—Matrimonial Causes Act 1973, s 43(1). *R v G (Surrey County Council intervening)* [1984] 3 460, CA.

Practice. *See* Practice—Children—Custody, *post*.

Decree—

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Decree absolute—

Arrangements for care and upbringing of children—

Declaration of satisfaction with arrangements for children—Divorce—Restriction on decree of divorce affecting children—Defect in declaration of satisfaction—Declaration based on false evidence—Wife concealing birth of second child occurring between filing petition and decree nisi—Whether wife entitled to question validity of decree absolute—Whether decree voidable—Matrimonial Causes Act 1973, s 41(3). *Healey v Healey* [1984] 3 1040, FamD.

Financial provision—

Child—

Lump sum order—Generally. *See* Financial provision—Lump sum order—Lump sum for children, *post*.

Consent order—

Application—Evidence—Agreed statement of means of parties—Registrar to be satisfied that claimant consents where claim for periodical payments is dismissed—Wife acting in person required to attend before registrar where claim is dismissed—Matrimonial Causes Act 1973, s 25. *Practice Direction* [1984] 2 256, FamD.

Interim order—

Maintenance pending suit. *See* Maintenance—Order, *post*.

Lump sum order—

Lump sum for children—Order for lump sum payment for benefit of children out of husband's share of proceeds of sale of matrimonial home—Husband on low income and in receipt of supplementary benefit—Wife not in receipt of supplementary benefit—Husband not intending to use proceeds of sale to provide accommodation for himself—Whether court entitled to order lump sum payment out of husband's share of proceeds of sale of matrimonial home—Matrimonial Causes Act 1973, ss 23(1)(f), 25(1). *Griffiths v Griffiths* [1984] 2 626, CA.

Maintenance pending suit—

Generally. *See* Maintenance—Order, *post*.

Periodical payments—

Interim order—Refusal. *See* Maintenance—Order, *post*.

Variation of order—

Notice of application for variation of order—Practice—Matrimonial Causes Rules 1977, rr 68(3), 73(2), App 1, Form 11. *Practice Direction* [1984] 3 640, FamD.

Foreign decree—

Recognition by English court—

Discretion to refuse to recognise divorce—Parties domiciled in England but Pakistani nationals—Bare talaq divorce—Husband obtaining talaq divorce in Kashmir in order to defeat wife's claim for ancillary relief in England—Whether recognition of husband's talaq contrary to public policy—Recognition of Divorces and Legal Separations Act 1971, s 8. *Chaudhary v Chaudhary* [1984] 3 1017, FamD & CA.

Overseas divorce—Proceedings in country outside British Isles—Proceedings—Talaq divorce—Talaq pronounced by husband in United Kingdom—Husband a national of Pakistan—Wife resident in Pakistan—Notice of talaq served on Pakistani authorities and wife in accordance with Pakistani law—Talaq not revoked and marriage validly dissolved under Pakistani law—Whether pronouncement of talaq part of 'proceedings' by which divorce obtained—Whether divorce 'obtained by means of ... proceedings' in Pakistan—Recognition of Divorces and Legal Separations Act 1971, ss 2(a), 3(1). *R v Secretary of State for the Home Dept, ex p Fatima, R v Secretary of State for the Home Dept, ex p Bi* [1984] 2 458, CA.

Overseas divorce—Judicial and other proceedings—Other proceedings—Divorce obtained by 'other proceedings'—Bare talaq divorce obtained in Kashmir—Whether divorce obtained by judicial or other proceedings—Whether divorce capable of being recognised in United Kingdom—Recognition of Divorces and Legal Separations Act 1971, s 2(a). *Chaudhary v Chaudhary* [1984] 3 1017, FamD & CA.

Proceedings—Meaning—Recognition of Divorces and Legal Separations Act 1971, ss 2(a), 6—Domicile and Matrimonial Proceedings Act 1973, s 16. *Chaudhary v Chaudhary* [1984] 3 1017, FamD & CA.

Maintenance—

Order—

Refusal of order—Maintenance pending suit—Applicant receiving supplementary benefit—Order for maintenance not taking applicant outside limit of entitlement to supplementary benefit—Whether order should be refused because order will not benefit applicant—Whether court bound by Department of Health and Social Security's assessment of respondent's financial obligations to applicant. *Peacock v Peacock* [1984] 1 1069, FamD.

DIVORCE (cont)

Overseas divorce—

Recognition by English court. *See* Foreign decree—Recognition by English court—Overseas divorce, *ante*.

Practice—

Children—

Custody—Applications for custody and access—Contested applications—Conciliation—Attendance of child at conciliation. **Practice Direction** [1984] 3 800, FamD.

Report of court welfare officer—Confidentiality of report. *See* Child (Welfare—Welfare report—Report of court welfare officer—Confidentiality of report).

Decree absolute. *See* Decree absolute, *ante*.

Property—

Protected or statutory tenancy—

Transfer of protected or statutory tenancy on termination of marriage—Legislation giving court power to make transfer order 'on granting decree ... or at any time thereafter'—Decree made absolute before legislation coming into force—Whether power to make transfer order exercisable retrospectively—Matrimonial Homes Act 1967, Sch 2. **Lewis v Lewis** [1984] 2 497, CA.

Transfer of property—

Agreement between parties—Wife consenting to divorce in return for agreement by husband to transfer property to her—Agreement not made subject to order of court—Refusal by husband to transfer property after divorce obtained—Application by wife for order for specific performance of agreement—Whether agreement ousting court's jurisdiction to make property adjustment order—Whether against public policy to enforce agreement—Whether order for specific performance should be granted. **Sutton v Sutton** [1984] 1 168, ChD.

Recognition of foreign decree. *See* Foreign decree—Recognition by English court, *ante*.

Will—

Effect of divorce on testamentary gift. *See* Will (Construction—Meaning of lapse—Effect of divorce on testamentary gift).

DOCTOR

Generally. *See* Medical practitioner.

DOCUMENT

Admissibility in evidence—

Record as evidence of facts stated therein—

Report of Department of Trade inspectors into affairs of company—Whether report a 'record'—Companies Act 1948, ss 165, 172—Civil Evidence Act 1968, s 4(1). **Savings and Investment Bank Ltd v Gasco Investments (Netherlands) BV** [1984] 1 296, ChD.

DRINK

Unfitness to drive—

Driving while unfit. *See* Road traffic (Driving while unfit to drive through drink or drugs).

DRIVER

Driving while unfit to drive through drink or drugs. *See* Road traffic (Driving while unfit to drive through drink or drugs).

Reckless driving. *See* Road traffic (Reckless driving).

DRUGS

Controlled drugs—

Amphetamine—

Amphetamine existing in two stereoisomeric forms—Amphetamine and one stereoisomeric form both included in list of controlled drugs—Other stereoisomeric form not included in list—Whether other stereoisomeric form not a controlled drug—Whether prosecution required to prove presence of both stereoisomeric forms where unlawful possession of 'amphetamine' is alleged—Misuse of Drugs Act 1971, Sch 2, Part II, para 1. **R v Watts** [1984] 2 380, CA.

Possession with intent to supply—

Supply—Meaning—Defendant in temporary control of drug for owner with intention of returning drug to owner soon—Whether intention to 'supply' drug to owner—Whether transfer of physical control from one person to another test of 'supplying'—Misuse of Drugs Act 1971, s 5(3). **R v Delgado** [1984] 1 449, CA.

Unlawful possession—

Defence—Lack of knowledge—Absence of belief, suspicion or reason to suspect substance a controlled drug—Self-induced intoxication making accused unable to hold belief or register suspicion—Whether self-induced intoxication affording defence—Whether test of knowledge objective in regard to all three states of mind covered by defence—Whether concept of reasonable sober man relevant—What is proper direction to jury on defence—Misuse of Drugs Act 1971, s 28(3)(b). **R v Young** [1984] 2 164, C-MAC.

Driving while unfit through drugs. *See* Road traffic (Driving while unfit to drive through drink or drugs).

Importation—

Restriction—

Fraudulent evasion. *See* Customs and excise (Importation of prohibited goods—Knowingly concerned in fraudulent evasion of prohibition or restriction—Knowingly).

Soporific or sedative drugs—

Self-induced intoxication resulting from excessive use of such drugs—

Criminal proceedings—Intoxication as a defence. *See* Criminal law (Intoxication as a defence—Soporific or sedative drug).

DUST

Removal of dust in factory. *See* Factory (Removal of dust).

EASEMENT

Right of way—

Conveyance—

Inclusion in conveyance of land—Principles applicable to determine if conveyance deemed to include right of way—Occupier under statutory tenancy of part of land conveyed enjoying right of way at date of conveyance—Transferor owning servient tenement—Whether sufficient that right of way is enjoyed with or appertaining to land at date of conveyance—Whether inclusion of right of way in conveyance depending on transferor's right of occupation—Whether right of way appertaining to part of land enuring for benefit of whole of land on transfer of whole of land by servient owner—Law of Property Act 1925, s 62(2). **Graham v Philcox** [1984] 2 643, CA.

Dominant tenement—

Alteration to dominant tenement—Enlargement of dominant tenement—Dominant tenement consisting of first floor flat in house—Right of way over adjoining property granted with lease of flat—House and right of way conveyed to plaintiff—Plaintiff converting house to single residence—Whether alteration to dominant tenement extinguishing right of way. **Graham v Philcox** [1984] 2 643, CA.

EDUCATION

Conveyance under School Sites Acts. *See* School—Conveyance under School Sites Acts, *post*.

School—

Conveyance under School Sites Acts—

Reverter—Cesser of use for purposes of Acts—Land conveyed to trustees on trust for purposes of Acts—Land ceasing to be used for purposes of Acts—Possession retained by trustees—Position where reverter occurring prior to Law of Property Act 1925—Position where reverter occurring after 1925 Act—Whether possessory title acquired by trustees—Whether when reverter occurring prior to 1925 land held on trusts of original grant or on trust for reverter—Whether when reverter occurring after 1925 land automatically reverting to reverter or whether trustees holding fee simple on trust for reverter—School Sites Act 1841, s 2—Law of Property Act 1925, ss 3(3), 7(1). **Re Rowhook Mission Hall, Horsham, Re Ladypool Road Old National School, Birmingham** [1984] 3 179, ChD.

ELECTIONS

Election court—

Election court for local election—

Judgment—Correction—Accidental slip or omission. *See* Judgment (Order—Correction—Accidental slip or omission—Election court for local election).

EMOLUMENTS

Income tax. *See* Income tax (Emoluments from office or employment).

EMPLOYMENT

Coal mining. *See* Coal mining.

Continuity—

Transfer of trade, business or undertaking—

Employment by transferor immediately before transfer—Immediately before—Weekend intervening between dismissal of employee and transfer of business—Whether employee employed immediately before transfer of business—Whether new employee taking over liability for compensation if employee unfairly dismissed—Transfer of Undertakings (Protection of Employment) Regulations 1981, reg 5(3). **Alphafields Ltd v Barratt** [1984] 3 795, EAT.

Contract of service—

Generally. *See* Master and servant (Contract of service).

Dismissal—

Unfair dismissal. *See* Unfair dismissal.

Duties of employee—

Contract of service. *See* Master and servant (Contract of service—Duties of employee).

Emoluments—

Income tax. *See* Income tax (Emoluments from office or employment).

Employment by public authority—

Dismissal—

Judicial review—Availability of remedy. *See* Judicial review (Availability of remedy—Employee of public authority—Dismissal of employee).

Equality of treatment of men and women—

European Economic Community—

Generally. *See* European Economic Community (Equality of treatment of men and women).

European Economic Community—

Equality of treatment of men and women. *See* European Economic Community (Equality of treatment of men and women).

Factory. *See* Factory.

Health and safety at work. *See* Health and safety at work.

Race relations. *See* Race relations.

Safety of employee—

Duty of master. *See* Master and servant (Duty of master—Safety of employees).

Safety of employees—

Building operations. *See* Building (Building operations).

See discrimination—

Generally. *See* Sex discrimination.

Suspension—

Employees refusing to operate new system of work—

Employer refusing to pay wages while employees refusing to operate new system—Whether employer's refusal to pay wages amounting to suspension of employees. **Cresswell v Board of Inland Revenue** [1984] 2 713, ChD.

Trade dispute. *See* Trade dispute.

Unfair dismissal. *See* Unfair dismissal.

EMPLOYMENT APPEAL TRIBUNAL

Practice—

Appeals—

Industrial tribunal decisions resulting from misdirection in law. *See* **Industrial tribunal** (Appeal from tribunal)—Appellate tribunal determining that decision of tribunal resulting from misdirection in law).

ENTERTAINMENT

Music and dancing licence—

Entertainments licence. *See* **Public entertainment**—Entertainments licence, *post*.

Public entertainment—

Entertainments licence—

Application for licence—Objections to licence being granted—Duty of authority to inform applicant of objections—Duty to give applicant opportunity to make representations in reply—Local Government (Miscellaneous Provisions) Act 1982, Part I. **R v Huntingdon DC, ex p Cowan** [1984] 1 58, QBD.

EQUITY

Breach of confidence—

Injunction—

Information obtained by illegal telephone tapping—Defence—Public interest in disclosure—Defendant newspaper obtaining tapes of plaintiff's telephone conversation—Tapes obtained by illegal telephone tapping—Tapes alleged to show plaintiff committing criminal offences and breaches of rules of racing—Publication of tapes constituting criminal offence—Whether publication in public interest—Whether interlocutory injunction restraining publication pending trial of action should be granted—Whether defendant should disclose source of tapes before trial of action—Wireless Telegraphy Act 1949, s 5—Contempt of Court Act 1981, s 10. **Francome v Mirror Group Newspapers Ltd** [1984] 2 408, CA.

Information obtained from confidential internal documents of plaintiff company—Defence—Public interest in disclosure—Defendant newspaper obtaining confidential internal documents from ex-employees of plaintiffs—Plaintiffs manufacturing instruments measuring level of intoxication by alcohol—Documents disclosing doubts on accuracy and reliability of instruments—Whether disclosure of contents of documents in public interest—Whether interlocutory injunction restraining disclosure of contents of documents pending trial of action should be granted—Whether possible trade loss caused by disclosure a ground for refusing injunction. **Lion Laboratories Ltd v Evans** [1984] 2 417, CA.

Charge—

Creation of equitable charge—

Joint tenancy—Borrower agreeing to create charge over property as security for loan—Borrower joint tenant of property—Other joint tenant not consenting to creation of charge—Lender making advance on assumption that borrower sole proprietor of property—Borrower depositing title documents with lender as security without other joint tenant's consent—Whether equitable charge created over borrower's beneficial interest in the property—Whether other joint tenant entitled to recover title documents from lender. **Thames Guaranty Ltd v Campbell** [1984] 2 585, CA.

Joint tenancy—Borrower agreeing to create charge over property as security for loan—Borrower joint tenant of property—Other joint tenant not consenting to creation of charge—Whether equitable charge created over borrower's beneficial interest in the property. **First National Securities Ltd v Hegerty** [1984] 3 641, CA.

Forfeiture—

Relief—

Jurisdiction of court—Circumstances in which relief will be granted—Licence granted to defendants to use certain names and trade marks—Licence terminated on failure of defendants to provide guarantee for payment as provided by agreement—Whether court having jurisdiction to grant relief against forfeiture—Whether equitable relief applicable to contract unconnected with interest in land. **Sport International Bussum BV v Inter-Footwear Ltd** [1984] 2 321, HL.

ESCAPED PRISONER

Harbouring escaped prisoner. *See* **Criminal law** (Harbouring escaped prisoner).

ESTOPPEL

Administration of estates—

Estoppel against administrator. *See* **Executor and administrator** (Administrator—Estoppel against administrator).

Cause of action estoppel. *See* **Res judicata**—Cause of action estoppel, *post*.

Conduct—

Breach of contract—

Waiver of breach. *See* **Contract** (Breach—Waiver—Conduct amounting to waiver).

Convention—

Parties adopting conventional basis for their relations—

Parties agreeing that tenancy agreement concluded between them not to have effect which in law it had—Grant of agricultural tenancy on basis that it would not be protected tenancy—Whether tenant estopped from claiming statutory protection—Whether unconscionable for tenant to rely on protection of statute—Agricultural Holdings Act 1948, s 2(1). **Keen v Holland** [1984] 1 75, CA.

Issue estoppel—

Judicial review—

Whether doctrine of issue estoppel appropriate in applications for judicial review. **R v Secretary of State for the Environment, ex p Hackney London BC** [1984] 1 956, CA.

Res judicata—

Cause of action estoppel—

Plaintiff successfully bringing claim in debt arising under contract in previous actions—Plaintiff then bringing action for damages arising out of breaches of contract—Whether plaintiff estopped by cause of action estoppel from bringing action for breach of contract—Whether defendant's breaches of contract and extent of liability under contract already subject of litigation and adjudication in previous proceedings—Whether claim in debt arising under contract and claim for damages for breaches of contract different causes of action. **Lawlor v Gray** [1984] 3 345, ChD.

EUROPEAN ECONOMIC COMMUNITY

Equality of treatment of men and women—

Failure of member state to fulfil obligations—

Failure to declare provisions contrary to principle of equality of treatment in collective agreements, contracts of employment and rules of undertakings, professions and occupations null and void—Exemption in case of employment in private households or where no more than five employed—Restriction for men of access to employment as midwives—Sex Discrimination Act 1975, ss 6(3), 20, 77(1)—EEC Council Directive 76/207, arts 2(2), 4(b), 9(2). *EC Commission v UK* [1984] 1 353, CJEC.

Fishing rights—

Conservation—

National measures—Consultation—Re-enactment of national measure—Re-enactment without substantive amendment—Re-enactment to cure technical defect—Original measure made after consultation and with approval of EC Commission—Re-enacted measure notified to but made without consultation of Commission—Validity of re-enacted measure—Whether fresh consultation with Commission required before re-enactment—West Coast Herring (Prohibition of Fishing) Order 1981. *Gewiese v Mackenzie* [1984] 2 129, CJEC.

Freedom of movement—

Restrictions justified on grounds of public policy, public security or public health—

Expulsion of EEC national following conviction of criminal offence—Court imposing sentence recommending deportation of defendant—Validity of recommendation—Reasons for recommendation—Court recommending deportation required to give reasons—Mode of giving reasons—Crown Court—Magistrates' courts—EEC Council Directive 64/221, arts 6, 9(1). *R v Secretary of State for the Home Dept, ex p Dannenberg* [1984] 2 481, CA.

EVIDENCE

Affidavit—

Court of Protection—

Practice. *See Mental health* (Court of Protection—Practice—Evidence—Evidence by affidavit).

Generally. *See Affidavit*.

Corroboration—

Criminal proceedings. *See Criminal evidence* (Corroboration).

Court of Appeal—

Generally. *See Court of Appeal* (Evidence).

Court of Protection—

Practice. *See Mental health* (Court of Protection—Practice—Evidence).

Criminal proceedings. *See Criminal evidence*.

Document—

Admissibility. *See Document* (Admissibility in evidence).

Extradition—

Generally. *See Extradition* (Evidence).

Fresh evidence—

Appeal—

Generally. *See Court of Appeal* (Evidence—Further evidence).

Interlocutory proceedings—

Report of Department of Trade inspectors into affairs of company—

Admissibility. *See Company* (Inspectors' report—Admissibility of report as evidence—Interlocutory proceedings).

Privilege—

Press—

Newspaper reporter—Source of information—Informant wrongfully passing Crown's confidential document to defendant newspaper for publication—Defendant ignorant of identity of informant but document bearing distinguishing marks likely to lead to identification by Crown—Crown bringing action against defendant for return of document for purpose of discovering informant's identity—Whether Crown entitled to order for disclosure—Whether disclosure necessary in interests of national security—Contempt of Court Act 1981, s 10. *Secretary of State for Defence v Guardian Newspapers Ltd* [1984] 3 601, HL.

Restrictive Practices Court—

Practice. *See Restrictive trade practices* (Court—Practice—Evidence).

EX PARTE INJUNCTION

See Injunction (Ex parte injunction).

EXCISE

Customs and excise. *See Customs and excise*.

EXECUTION

Charging order—

Land—

Discretion—Charging order nisi on land—Discretion of judge to make charging order absolute—Principles governing exercise of judge's discretion—Charging Orders Act 1979, ss 1, 2. *First National Securities Ltd v Hargerty* [1984] 3 641, CA.

Interest in land—Joint tenancy—Wife commencing divorce proceedings and serving notice of severance in relation to joint tenancy—Creditor obtaining judgment against husband and obtaining charging order on husband's interest in matrimonial home—Wife seeking to vary charging order or for it not to be enforced until hearing of her application for ancillary relief—Whether wife entitled to apply for variation of charging order—Whether court should consider wife's position when making charging order on matrimonial home—Whether interest of wife and children to be balanced against interest of creditor—Charging Orders Act 1979, ss 1, 3(5). *Harman v Glencross* [1984] 2 577, FamD.

County court—

Judgment or order. *See County court* (Judgment or order—Execution).

Immunity from execution—

Foreign sovereign state. *See Constitutional law* (Foreign sovereign state—Immunity from enforcement proceedings).

EXECUTION (cont)

Jurisdiction—

Sequestration. *See* Sequestration—Jurisdiction, *post*.

Sequestration—

Jurisdiction—

Sequestration not to be ordered where contempt has been purged or fear of future contempt. *Inland Revenue Comrs* [1984] 3 25, CA.

Order for release or discharge of sequestrator—

Matters to be considered before order made—Existence of claims for negligence against sequestrator—Whether court can limit period for bringing claims. *IRC v Hoogstraten* [1984] 3 25, CA.

Whether set form of order. *IRC v Hoogstraten* [1984] 3 25, CA.

Position of third parties in relation to writ of sequestration. *See* Contempt of court (Sequestration—

Position of third parties in relation to writ of sequestration).

Stay—

Stay of execution pending appeal—

Summary judgment. *See* Practice (Summary judgment—Stay of judgment pending appeal).

EXECUTOR AND ADMINISTRATOR

Administrator—

Appointment in special circumstances—

Grant passing over prior claims—Limitation of grant—Whether grant may be made to agreed grantees without excluding right of executors named in will to apply subsequently for probate—Supreme Court Act 1981, s 116(2). *Re Mathew (decd)* [1984] 2 396, FamD.

Estoppel against administrator—

Estoppel in relation to agreements made or acts done before grant of administration—Whether administrator estopped from denying validity of agreements made or acts done by him before grant of administration. *Mills v Anderson* [1984] 2 538, QBD.

Relation back of title—

When relation back occurs—Whether approach in determining when relation back occurs subjective or objective. *Mills v Anderson* [1984] 2 538, QBD.

Capital transfer tax—

Persons liable as executor. *See* Capital transfer tax (Liability to tax—Persons liable as executor or trustee).

Executor—

Appointment—

Testator bequeathing all his estate to his wife—Testator's sons to be executors if she 'predeceased' him—Marriage dissolved before testator's death—Devise to wife lapsing in consequence—Wife still alive at testator's death—Whether appointment of sons as executors effective—Wills Act 1837, s 18A(1)(b). *Re Cherrington (decd)* [1984] 2 285, FamD.

EXEMPLARY DAMAGES

Generally. *See* Damages (Exemplary damages).

EXPLOSIVE SUBSTANCE

Offences relating to. *See* Explosives.

EXPLOSIVES

Making or possessing explosive under suspicious circumstances—

Making explosive for unlawful object—

Explosive manufactured with object of using it outside jurisdiction—Whether offence can be committed if object of manufacture is to use explosive outside jurisdiction—Whether lawfulness of object can be tested only by reference to whether object is to use explosive within jurisdiction in breach of English law—Explosive Substances Act 1883, s 4(1). *R v Berry* [1984] 3 1008, HL.

Offence—

Making or possessing explosive substance—

Defence of lawful purpose—Making petrol bomb—Whether defence of lawful purpose available where defendant's object in making or possessing substance is self-defence against apprehended imminent attack—Explosive Substances Act 1883, s 4(1). *Attorney General's Reference (No 2 of 1983)* [1984] 1 988, CA.

EXTRADITION

Evidence—

Duty of magistrate—

Magistrate to consider whether conduct of accused would, if committed in England, constitute an extradition crime—Whether question of double criminality to be considered—Extradition Act 1870, s 10, Sch 1—Extradition Act 1873, s 3. *United States Government v McCaffery* [1984] 2 570, HL.

Evidence of substantive criminal law of foreign state—

Admissibility—Secretary of State's order to proceed made for crimes contained in list in Sch 1 to Extradition Act 1970—Extradition treaty with foreign state incorporating list without modifications—Subsequent Extradition Act and treaty adding to list. *Government of Denmark v Nielsen* [1984] 2 81, HL.

Surrender—

Person accused or convicted of extradition crime—

Secretary of State's power to order surrender—Fugitive contending that extradition would violate European Convention on Human Rights—Fugitive applying to European Commission of Human Rights for decision on matter—Secretary of State ordering surrender of fugitive while application pending—Whether Secretary of State entitled to make the order—Whether Secretary of State bound to consider articles of convention—Extradition Act 1870, s 11—European Convention on Human Rights, art 3. *R v Secretary of State for the Home Dept, ex p Kirkwood* [1984] 2 390, QBD.

FACTORY

Dust—

Removal of dust. *See* Removal of dust, *post*.

FACTORY (cont)

Removal of dust—

All practicable measures to be taken—

Obligation where dust likely to be injurious or offensive or where substantial quantities of dust of any kind—Duty to provide exhaust appliances—Plaintiff working in cotton spinning mill—Fine cotton dust given off in mill not considered likely to be source of danger to health—Plaintiff contracting byssinosis as a result of inhaling dust—Whether dust given off of such character and extent as to be likely to be injurious or offensive to plaintiff—Whether dust given off in substantial quantities—Whether defendant employer taking all practicable measures to prevent inhalation and accumulation of dust—Whether employer in breach of statutory duty in failing to provide exhaust appliances—Factories Act 1961, s 63. *Brooks v J & P Coates (UK) Ltd* [1984] 1 702, QBD.

Ventilation—

Workroom—

Duty to provide adequate ventilation—Cotton spinning mill—Plaintiff exposed to dust given off in course of spinning—Plaintiff contracting byssinosis as result of inhaling cotton dust—Whether defendant employer providing adequate ventilation—Whether defendant employer making suitable provision for rendering harmless cotton dust injurious to health—Factories Act 1961, s 4. *Brooks v J & P Coates (UK) Ltd* [1984] 1 702, QBD.

Workroom—

Ventilation. *See* Ventilation—Workroom, *ante*.

FAIRS

See Markets and fairs.

FAMILY DIVISION

Affidavit—

Filing. *See* Affidavit (Filing—Practice—Family Division).

Child—

Welfare report—

Practice. *See* Child (Welfare—Welfare report).

Counsel's fees—

Interlocutory fees—

Scale of fees to be allowed on taxation. *Practice Direction* [1984] 1 784, FamD.

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Stepchild—

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Person treated by deceased as child of family—Adult stepson—Whether eligibility to apply for family provision dependent on age or relationship—Inheritance (Provision for Family and Dependents) Act 1975, ss 1(1)(d), 3(1)(3). *Re Callaghan (deceased)* [1984] 3 790, FamD.

Time for application—

Date from which time runs—

Date on which representation is first taken out—Invalidated will—Whether time began to run from date of probate or date letters of administration granted on intestacy—Inheritance (Provision for Family and Dependents) Act 1975, s 4. *Re Freeman (decd)* [1984] 3 897, CA.

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Reasonable financial provision—

Large estate—Husband leaving estate worth £1 1/2m but making inadequate provision for wife—Bulk of estate left to university—Marriage lasting 18 years and widow wholly blameless—Widow enjoying very high standard of living during marriage—Widow without assets of her own—Widow left substantially less than she would have received on divorce—What constitutes 'reasonable financial provision'—Inheritance (Provision for Family and Dependents) Act 1975, ss 1, 2(1)(a)(b), 3. *Re Besterman (decd)* [1984] 2 656, CA.

Large estate—Husband leaving estate worth £230,000 but making no provision for wife—Bulk of estate left to university—Widow having assets of £98,000 derived from gifts from husband—Whether court bound by amount of lump sum widow would have received on divorce—What constitutes 'reasonable financial provision'—Inheritance (Provision for Family and Dependents) Act 1975, ss 1, 3(2). *Re Bunning (decd)*, *Bunning v Salmon* [1984] 3 1, ChD.

FATAL ACCIDENT

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FINANCIAL PROVISION

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Provision for widow out of husband's estate. *See* Family provision (Widow).

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Salmon and trout—

Obstruction to passage of fish—

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Prison governor's duty in respect of writ—

Whether existence of court's power to issue writ to prison governor to bring up prisoner imposing duty on governor to bring up prisoner. **R v Governor of Brixton Prison, ex p Walsh** [1984] 1 344, QBD.

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Offence to supply unhallmarked article to which description indicating it is made of precious metal is applied—Whether an offence of strict liability—Hallmarking Act 1973, s 1(1)(b). **Chilvers v Rayner** [1984] 1 843, QBD.

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Duty owed to persons who not their employees but who use non-domestic premises made available to them as place of work etc—Company having control of block of flats—Whether lifts and electrical installations serving common parts of block are 'non-domestic premises'—Whether lifts and electrical installations 'made available as place of work' etc to persons repairing and maintaining them—Whether company owing statutory duty to such persons—Health and Safety at Work Act 1974, ss 4, 53(1). **Westminster City Council v Select Management Ltd** [1984] 1 994, QBD.

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HOUSE OF LORDS (cont)

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Tenant's right to buy—

Exclusion of right—Dwelling having substantially different features from those of ordinary dwellings—Different features designed to make house suitable for occupation by physically disabled person—Substantially different features—Designed—Whether comparison to be made with all ordinary dwellings or merely similar dwellings in same locality—Whether dwelling 'designed' for occupation by disabled person only if house built for such occupation—Housing Act 1980, Sch 1, Pt 1, para 3. **Freeman v Wansbeck DC** [1984] 2 746, CA.

HOUSING ASSOCIATION

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Divorce. *See* **Divorce**.

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Extent of Secretary of State's power to detain person subject to a deportation order—Immigration Act 1971, Sch 3, para 2(3). **R v Governor of Durham Prison, ex p Singh** [1984] 1 983, QBD.

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Burden of proof that entry illegal—Immigration officials refusing entry certificate because not accepting identity of applicant—Applicant successfully appealing to adjudicator—Applicant obtaining indefinite leave to enter United Kingdom—Secretary of State obtaining further evidence casting doubt on applicant's identity—Whether burden of proof on Secretary of State to show that on balance of probabilities applicant an illegal entrant—Whether further evidence obtained after adjudicator's decision showing that fraud practised on adjudicator. **Ali v Secretary of State for the Home Dept** [1984] 1 1009, CA.

Leave to enter—

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Leave to enter obtained by deception—Entrant subsequently applying for variation of leave—Leave extended pending determination of application—Whether extension of leave untainted by original deception—Whether applicant entitled to remain in United Kingdom until application formally determined and right of appeal exhausted—Immigration (Variation of Leave) Order 1976, art 3(1). **R v Secretary of State for the Home Dept, ex p Lapinid** [1984] 3 257, CA.

Leave to enter obtained by deception—Entrant subsequently found to be illegal entrant—Whether leave given when it was not known that entry was illegal a relevant consideration when deciding whether to give directions for summary removal of entrant—Immigration Act 1971, Sch 2, para 9. **R v Secretary of State for the Home Dept, ex p Lapinid** [1984] 3 257, CA.

IMMUNITY

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Mistake—Error in computation of tax due—Further assessment to recover tax lost—Further assessment stated to be made pursuant to statutory provision inapplicable in circumstances—Validity of assessment—Whether 'assessment to tax' including error in computation tax—Taxes Management Act 1970, s 29(3)(b), (c). **Vickerman (Inspector of Taxes) v Mason's Personal Representatives** [1984] 2 1, ChD.

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Machinery or plant—

Ownership of machinery or plant—Machinery or plant belonging to taxpayer in consequence of expenditure—Belong—Machinery or plant installed by tenant becoming landlord's fixtures—Whether machinery or plant belonging to tenant—Finance Act 1971, s 41(1). **Stokes (Inspector of Taxes) v Costain Property Investments Ltd** [1984] 1 849, CA.

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Judicial review of commissioners' exercise of discretion—

Availability of remedy. *See* Judicial review (Availability of remedy—Exercise of discretion on behalf of Crown—Inland Revenue Commissioners).

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Appellate tribunal determining that decision of tribunal resulting from misdirection of law—

Whether appellate tribunal required to remit case for reconsideration if satisfied that decision was plainly right. **Dobie v Burns International Security Services (UK) Ltd** [1984] 3 333, CA.

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Presentation of complaint to tribunal—Time limit for presentation of complaint—Not reasonably practicable for complaint to be presented within prescribed period—Relevant considerations—Employee pursuing employer's domestic appeals procedure—Whether 'reasonably practicable' for employee to present complaint while appeal pending under domestic procedure—Employment Protection (Consolidation) Act 1978, s 67(2). **Palmer v Southend-on-Sea BC** [1984] 1 945, CA.

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Matters to be considered before granting injunction—

Injunction prohibiting payment of irrevocable letter of credit etc—Injunction not normally to be granted in absence of substantial challenge to validity of letter of credit etc—Uncorroborated statement of bank's customer not normally sufficient evidence. **Bolivinter Oil SA v Chase Manhattan Bank** [1984] 1 351, CA.

Interlocutory—

Danger that defendant may transfer assets out of jurisdiction—

Effect of injunction—Whether Mareva creditor having sufficient interest in outcome of proceedings between third party and debtor to be joined as party to proceedings—RSC Ord 15, r 6(2)(b)(ii). **Sanders Lead Co Inc v Entores Metal Brokers Ltd** [1984] 1 857, CA.

INJUNCTION (cont)

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Jurisdiction—

Libel—Plaintiff seeking injunction restraining defendant from publication—Publication referring to spent convictions—Grant of injunction restraining publication if publication is malicious—Rehabilitation of Offenders Act 1974, s 1(1). **Herbage v Pressdram Ltd** [1984] 2 769, CA.

Libel action—

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Chancery Division—Ex parte injunction—Grant of injunction prior to issue of writ or originating summons—Undertaking to be given to issue writ forthwith—Consequence of failure to implement undertaking—Duty of intended plaintiff's solicitor—RSC Ord 29, r 1(3). **P S Refson & Co Ltd v Sagers** [1984] 3 111, ChD.

Preservation of proceeds of crime—

Extent of court's power to grant injunction in favour of police—Money in bank account—Money obtained through fraudulent trading—Money mixed with legitimately obtained money in bank account—Moneys incapable of separation into legitimate and illegitimate elements—Whether police entitled to injunction restraining dealings with bank account—Supreme Court Act 1981, s 37(1). **Chief Constable of Hampshire v A** [1984] 2 385, CA.

Principle governing grant—

Grant or refusal effectively ending action—Court's approach to grant or refusal—Avoidance of injustice—Grant of injunction having effect of giving judgment for plaintiff and denying defendant right to trial. **Cayne v Global Natural Resources plc** [1984] 1 225, CA.

Trial issue—Serious question to be tried of which outcome uncertain—Not necessary for parties firmly to establish outcome of case—Whether defendant's deposed positive case necessarily to be preferred to plaintiff's case relying solely on inference. **Cayne v Global Natural Resources plc** [1984] 1 225, CA.

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INSURANCE

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Registration—

Application for registration—Application on ground that applicant has 'carried on' business as an insurance broker for prescribed period—Whether applicant required to have adequate practical experience in work of insurance broking—Insurance Brokers (Registration) Act 1977, s 3(1)(c)(g). **Pickles v Insurance Brokers Registration Council** [1984] 1 1073, QBD.

Application for registration—Refusal of application—Powers of court—RSC Ord 55, r 3(1). **Pickles v Insurance Brokers Registration Council** [1984] 1 1073, QBD.

Fire insurance—

Covenant in lease. *See* Landlord and tenant (Covenant—Insurance—Fire).

Illegality—

Restriction on carrying on insurance business—

Insurance business carried on without authority of Secretary of State—Effect of illegality on reinsurance—Plaintiff insurance company carrying on marine insurance without authorisation—Plaintiff reinsuring risks with defendant—Whether illegality of original contracts affecting reinsurance contract—Whether original contracts void—Insurance Companies Act 1974, ss 2(1), 11(1), 83(4). **Bedford Insurance Co Ltd v Instituto de Resseguros do Brasil** [1984] 3 766, QBD.

Insurance business carried on without authority of Secretary of State—Effect of illegality on reinsurance—Plaintiff reinsuring risks with foreign insurance company—Foreign insurance company not authorised to carry on insurance in Great Britain—Whether illegality of reinsurers' business affecting reinsurance contract—Whether reinsurance contract void—Insurance Companies Act 1974, ss 2(1), 11(1), 83(4). **Stewart v Oriental Fire and Marine Insurance Co Ltd** [1984] 3 777, QBD.

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INTEREST

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Damages—

Arbitration award. *See* Arbitration (Award—Interest—Damages).

INTEREST (cont)

Damages (cont)—

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Rate of interest—Special damage—Loss of wages—Plaintiff injured in course of his employment—Plaintiff off work for two periods as a result of accident and losing wages—Loss quantified at end of each period—Trial not taking place until four years later—Principles to be applied—Whether interest should be awarded at full or half rate—Whether interest may be awarded at other than half rate when special circumstances exist. **Dexter v Courtaulds Ltd** [1984] 1 70, CA.

Debt—

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Late payment of debt—

Power to award interest by way of general damages—Debt paid late but before proceedings for recovery commenced—Whether court having power to award interest by way of general damages—Law Reform (Miscellaneous Provisions) Act 1934, s 3(1)—Supreme Court Act 1981, s 35A. **President of India v La Pintada Cia Navigacion SA** [1984] 2 773, HL.

Land—

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Limitation fund—

Admiralty—

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Sale of shares—

Interest on unpaid purchase money—

Delay in completion of contract—Delay through fault of vendor—Vendor not entitled to interest under contract—Whether vendor entitled to equitable interest. **Harvela Investments Ltd v Royal Trust Co of Canada (CI) Ltd** [1984] 2 65, ChD.

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INTERLOCUTORY PROCEEDINGS

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INTERNATIONAL LAW

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INVALIDITY BENEFIT

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Deduction of invalidity benefit. *See* **Damages** (Personal injury—Loss of earnings—Deduction of industrial injury, disablement, sickness or invalidity benefit accruing to injured person).

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JOINT TENANCY

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Dismissal of employee—Conditions of employment approved by Secretary of State and required by statutory instrument to be incorporated in contract of employment—Whether employee having public law rights—Whether employee entitled to judicial review of dismissal—RSC Ord 53. **R v East Berkshire Health Authority, ex p Walsh** [1984] 3 425, CA.

Employment by public authority—

Dismissal of employee—Dismissal of prison officer—Prison officer's employment governed by code of discipline deriving authority from statute—Application by prison officer for judicial review of dismissal—Whether prison officer's dismissal having public law element—Whether prison officer entitled to judicial review of dismissal—Prison Act 1952, s 47(1)—Prison Rules 1964, r 84. **R v Secretary of State for the Home Dept, ex p Benwell** [1984] 3 854, QBD.

Exercise of discretion on behalf of Crown—

Inland Revenue Commissioners—Powers to initiate machinery for cancellation of tax advantage—Assurance given to taxpayer by Revenue in 1978 that no further investigation would be made into sale of certain shares—Taxpayer forgoing claims for tax relief in reliance on assurance—Revenue deciding in 1982 to reopen investigation into sale of shares—Whether court may review decision to reopen investigation—Whether decision to reopen investigation an abuse of power—Income and Corporation Taxes Act 1970, ss 460, 465. **R v Inland Revenue Comrs, ex p Preston** [1984] 3 625, CA.

Legitimate expectation—

Denial of legitimate expectation—Minister exercising prerogative power to deprive civil servants of benefits of trade union membership—Minister not consulting civil servants before acting—Whether civil servants having legitimate expectation that they would be consulted—Whether denial of legitimate expectation grounds for judicial review. **Council of Civil Service Unions v Minister for the Civil Service** [1984] 3 935, HL.

Magistrate declining jurisdiction to hear information—

Whether appropriate remedy application for judicial review or appeal by way of case stated. **R v Clerkenwell Metropolitan Stipendiary Magistrate, ex p DPP** [1984] 2 193, QBD.

National security—

Exercise of prerogative on grounds of national security—Whether national security preventing judicial review of exercise of prerogative. **Council of Civil Service Unions v Minister for the Civil Service** [1984] 3 935, HL.

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Generally. *See* **Certiorari**.

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Circumvention of judicial review procedure—

Decision of public authority challenged in defence to action brought by it—Defendant occupying council flat—Local authority resolving to increase rent of flat—Defendant refusing to pay increase—Local authority bringing claim for arrears of rent—Whether defendant entitled to challenge validity of resolution increasing rent by way of defence to claim for arrears of rent—Whether defendant only entitled to challenge validity of resolution by way of application for judicial review—RSC Ord 53. **Wandsworth London BC v Winder** [1984] 3 976, HL.

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JURY

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LAND (cont)

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Registration—

Common land. *See* Commons (Registration).

Restrictive covenant affecting. *See* Restrictive covenant affecting land.

Sale—

Generally. *See* Sale of land.

Specific performance. *See* Specific performance (Sale of land).

Town and country planning. *See* Town and country planning.

LANDLORD AND TENANT

Agricultural holding—

Generally. *See* Agricultural holding.

Arrears of rent—

Forfeiture of lease. *See* Forfeiture of lease—Arrears of rent, *post*.

Assignment of lease—

Consent to assignment—

Sale of land. *See* Sale of land (Leasehold interest—Consent to assignment).

Breach of covenant to repair—

Leave to institute proceedings—

Proceedings to recover cost of repairs already carried out by landlord—Landlord carrying out repairs and bringing action against tenant to recover cost of repairs—Whether claim for debt due under lease or claim for damages for breach of repairing covenant—Whether leave required to bring action—Leasehold Property (Repairs) Act 1938, s 1. *Hamilton v Martell Securities Ltd* [1984] 1 665, ChD.

Business premises—

Application for new tenancy—

Landlord issuing counter summons for interim rent—Withdrawal of tenant's application—Action discontinued—Whether counter-summons surviving as a counterclaim. *Artoc Bank and Trust Ltd v Prudential Assurance Co plc* [1984] 3 538, ChD.

Withdrawal of application—Leave to discontinue proceedings—Notice of withdrawal of application given before any evidence filed—Whether leave to discontinue necessary—RSC Order 21, r 2(3A)—RSC Ord 28, r 1A—RSC Ord 97. *Artoc Bank and Trust Ltd v Prudential Assurance Co plc* [1984] 3 538, ChD.

Compensation for disturbance—

Capital gains tax—Capital sum received for loss of asset. *See* Capital gains tax (Disposal of assets)—Capital sum derived from asset notwithstanding no asset acquired by person paying sum—Capital sum received for loss of asset—Termination of tenancy—Statutory compensation for termination of business tenancy).

Premises 'being or comprised in the holding' and continuously occupied by tenant for 14 years for business premises—Premises—Amount of compensation—Entitlement to double compensation—Tenant not entitled to double compensation if change in occupier of 'the premises' and new tenant not the successor of previous occupier's business—Whether 'premises' referring to any premises in holding or particular premises in holding used by tenant for his business—Whether tenant entitled to double compensation if at least part of relevant holding continuously occupied by him for business purposes—Landlord and Tenant Act 1954, s 37(3)(a)(b). *Edicron Ltd v William Whiteley Ltd* [1984] 1 219, CA.

Forfeiture of lease—

Underlessee—Relief against forfeiture. *See* Relief against forfeiture—Underlessee—Business premises, *post*.

New tenancy—

Application for new tenancy. *See* Business premises—Application for new tenancy, *ante*.

Opposition to grant of new tenancy. *See* Opposition to grant of new tenancy of business premises, *post*.

Refusal—Compensation. *See* Business premises—Compensation for disturbance, *ante*.

Opposition to grant of new tenancy. *See* Opposition to grant of new tenancy of business premises, *post*.

Surrender of tenancy—

Restriction on agreements purporting to preclude tenant applying for new tenancy—Purporting to preclude—Lease requiring tenant to offer to surrender lease before he is entitled to consent to assign—Tenant offering to surrender lease and offer accepted by landlord but tenant subsequently withdrawing offer—Landlord suing tenant to enforce agreement—Whether agreement void as 'purporting to preclude' tenant from applying for new tenancy at end of term—Landlord and Tenant Act 1954, s 38(1). *Allnatt London Properties Ltd v Newton* [1984] 1 423, CA.

Terms of new tenancy—

Inclusion of term that tenant pay landlord's costs in respect of preparation of lease—Whether court should exercise discretion to approve such term—Landlord and Tenant Act 1954, s 35—Costs of Leases Act 1958, s 1. *Cairnplace Ltd v CBL (Property Investment) Co Ltd* [1984] 1 315, CA.

Inclusion of term that tenant provide guarantor of his obligations under new lease—Whether court having jurisdiction to order inclusion of such term—Landlord and Tenant Act 1954, ss 35, 41A(6). *Cairnplace Ltd v CBL (Property Investment) Co Ltd* [1984] 1 315, CA.

Underlessee—

Relief against forfeiture. *See* Relief against forfeiture—Underlessee—Business premises, *post*.

Council houses. *See* Housing (Local authority houses).

County court—

Rent restriction. *See* Rent restriction (County court).

LANDLORD AND TENANT (cont)

Covenant—

Insurance—

Fire—Landlord covenanting to insure premises to full value—Tenant covenanting to pay additional rent to cover premiums—Landlord covenanting in case of destruction or damage to premises to apply insurance moneys received in respect of insurance in reinstating premises—Policy naming insured as landlord and tenant 'for their respective rights and interests'—Premises destroyed by fire—Premises underinsured—Tenant not wishing to occupy premises if rebuilt—Landlord deciding not to rebuild—Tenant surrendering lease to landlord—Right of tenant to damages for landlord's breach of covenant to insure to full value—Rights of landlord and tenant in insurance moneys. **Beacon Carpets Ltd v Kirby** [1984] 2 726, CA.

Repair—

Breach. *See* Breach of covenant to repair, *ante*.

Generally. *See* Repair, *post*.

Implied. *See* Implied covenant to repair, *post*.

Death of tenant—

Agricultural holding—

Succession. *See* Agricultural holding (Tenancy—Death of tenant).

Fire—

Insurance—

Covenant. *See* Covenant—Insurance—Fire, *ante*.

Forfeiture of lease—

Arrears of rent—

County court action—Relief against forfeiture—Jurisdiction of High Court—'Lessee shall be barred from all relief' if lessee failing to pay arrears of rent specified in possession order made by county court—Whether lessee merely barred from seeking further relief in county court—Whether jurisdiction of High Court to grant relief against forfeiture ousted—County Courts Act 1959, s 19(1)(c). **Di Palma v Victoria Square Property Co Ltd** [1984] 2 92, ChD, **Jones v Barrett** [1984] 3 129, ChD.

Relief against forfeiture. *See* Relief against forfeiture, *post*.

Implied covenant to repair—

Short lease of dwelling-house—

Duty of landlord to keep in repair structure and exterior of the dwelling-house—Demised premises consisting of top floor flat in building—Whether roof immediately above flat capable of being part of the structure and exterior of flat—Housing Act 1961, s 32(1)(a). **Douglas-Scott v Scorgie** [1984] 1 1086, CA.

Insurance—

Covenant. *See* Covenant—Insurance, *ante*.

Lease—

Covenant—

Generally. *See* Covenant, *ante*.

Forfeiture. *See* Forfeiture of lease, *ante*.

Mortgage of lease—

Forfeiture—Relief of mortgagees. *See* Relief against forfeiture—Underlessee—Lease mortgaged—Relief of mortgagees, *post*.

Local authority houses. *See* Housing (Local authority houses).

Long tenancy at low rent—

Continuation as statutory tenancy—

Terms of statutory tenancy—Determination of terms by court—Principles applicable in determining terms—Fairness and justice as between parties—Relevance of terms of contractual tenancy—Lease of maisonette—Tenancy limited to residential use for one household only—Whether prohibition on sharing maisonette justified as term of statutory tenancy—Landlord and Tenant Act 1954, s 7(1). **Etablissement Commercial Kamira v Schiazzano** [1984] 2 465, CA.

Mortgage of lease—

Forfeiture—

Relief of mortgagees. *See* Relief against forfeiture—Underlessee—Lease mortgaged—Relief of mortgagees, *post*.

Relief of mortgagees—Conditions of relief. *See* Relief against forfeiture—Underlessee—Lease mortgaged—Relief of mortgagees—Conditions of relief, *post*.

Relief of mortgagees—Generally. *See* Relief against forfeiture—Mortgagee, *post*.

Negligence—

Landlord's liability—

Liability where landlord also designer and builder of premises. *See* Negligence (Landlord's liability—Landlord designer and builder of premises).

New tenancy—

Business premises—

Opposition to grant of new tenancy. *See* Opposition to grant of new tenancy of business premises, *post*.

Opposition to grant of new tenancy of business premises—

Intention of landlord to occupy holding for purposes of business to be carried on by him—

Reasonable prospect of carrying out intention to use premises for business purposes—Landlord requiring planning permission for change of use—Whether landlord having reasonable prospect of obtaining planning permission—Landlord and Tenant Act 1954, s 30(1)(g). **Westminster City Council v British Waterways Board** [1984] 3 737, HL.

Protected tenancy—

Transfer on termination of marriage. *See* Divorce (Property—Protected or statutory tenancy—Transfer of protected or statutory tenancy on termination of marriage).

Relief against forfeiture—

Arrears of rent—

County court action. *See* Forfeiture of lease—Arrears of rent—County court action, *ante*.

Company—

Insolvency of company—Forfeiture of company's lease because of winding up—Company not entitled to apply for statutory relief—Whether court having equitable jurisdiction to grant company relief against forfeiture—Law of Property Act 1925, s 146(10). **Official Custodian of Charities v Parway Estates Ltd** [1984] 3 679, CA.

LANDLORD AND TENANT (cont)

Relief against forfeiture (cont)—

Mortgagee—

Mortgagee not taking part in forfeiture proceedings—Whether mortgagee bound by forfeiture order. *Official Custodian for Charities v Mackey* [1984] 3 689, ChD.

Underlessee—

Business premises—Forfeiture of underlease in consequence of forfeiture of superior lease—Underlessee applying for vesting order granting him new lease of premises—Contractual term of underlease expiring before application heard—Landlord not terminating underlease in accordance with Landlord and Tenant Act 1954—Whether jurisdiction to make vesting order—Whether 'term' of underlease including period during which sublease continues prior to termination under 1954 Act—Whether 'term' of underlease limited to term specified in sublease—Law of Property Act 1925, s 146(4)—Landlord and Tenant Act 1954, s 24(1). *Cadogan v Dimovic* [1984] 2 168, CA.

Lease mortgaged—Relief of mortgagees—Loan to lessee by mortgagees secured by charge by way of legal mortgage—Action for possession by lessor for non-payment of maintenance contribution—Proceedings unknown to mortgagees until after forfeiture of lease—Relief barred by statute—Whether court having equitable jurisdiction to grant relief—Law of Property Act 1925, s 146(4). *Abbey National Building Society v Maybeech Ltd* [1984] 3 262, ChD. [1984] 3 262, ChD.

Vesting order—Effect of vesting order—Lessee subleasing and mortgaging property—Landlord obtaining forfeiture against lessee—Mortgagee of lessee intending to obtain vesting order for new mortgage—Whether vesting order would have retrospective effect—Whether landlord or mortgagee entitled to receive rents from sublessees prior to vesting order being made—Law of Property Act 1925, s 146(4). *Official Custodian for Charities v Mackey* [1984] 3 689, ChD.

Rent—

Arrears—

Forfeiture of lease. *See* Forfeiture of lease—Arrears of rent, *ante*.

Restriction. *See* Rent restriction.

Review—

Retrospective operation—Rent to be paid on usual quarter days—Lease providing for forfeiture of lease if rent 21 days in arrears—Increased rent determined under review clause payable from specified date—Increased rent not determined until after specified date—Whether rent due and payable until quarter day following award of increased rent—Whether rent due and payable on date of award. *South Tottenham Land Securities Ltd v R & A Millett (Shops) Ltd* [1984] 1 614, CA.

Repair—

Breach of covenant—

Generally. *See* Breach of covenant to repair, *ante*.

Implied covenant. *See* Implied covenant to repair, *ante*.

Landlord's covenant—

Implication of repairing covenant—Landlord's duty at common law to repair—Lease of commercial premises—Drain—Drain partly under demised premises and partly under landlord's property—No express landlord's covenant to repair—Lease containing detailed scheme regarding repairs to demised premises including drains—Lease including implied easement of drainage over part of drain under landlord's property—Whether landlord's covenant to repair could be implied—Whether landlord under common law duty to repair drain. *Duke of Westminster v Guild* [1984] 3 144, CA.

Statutory tenancy—

Terms of tenancy on termination of contractual long tenancy at low rent. *See* Long tenancy at low rent—Continuation as statutory tenancy—Terms of statutory tenancy, *ante*.

Transfer on termination of marriage. *See* Divorce (Property—Protected or statutory tenancy—Transfer of protected or statutory tenancy on termination of marriage).

Surrender of tenancy—

Business premises. *See* Business premises—Surrender of tenancy, *ante*.

Tenancy—

Agricultural holding. *See* Agricultural holding.

Underlease—

Arrears of rent—

County court action—Forfeiture of lease—Relief against forfeiture. *See* Forfeiture of lease—Arrears of rent—County court action—Relief against forfeiture, *ante*.

Forfeiture of lease—

Relief against forfeiture. *See* Relief against forfeiture—Underlessee, *ante*.

LAW SOCIETY

Intervention in solicitor's practice—

Dishonesty. *See* Solicitor (Dishonesty—Intervention by Law Society in solicitor's practice).

Legal aid. *See* Legal aid.

LEASE

Business premises. *See* Landlord and tenant (Business premises).

Forfeiture—

Generally. *See* Landlord and tenant (Forfeiture of lease).

Insurance—

Covenant. *See* Landlord and tenant (Covenant—Insurance).

Mortgage of lease—

Forfeiture—

Relief of mortgagees. *See* Landlord and tenant (Relief against forfeiture—Underlessee—Lease mortgaged—Relief of mortgagees).

Rent. *See* Landlord and tenant (Rent).

Repair. *See* Landlord and tenant (Repair).

LEGAL ADVISER

Access to—

Right of prisoner. *See* Prison (Access to legal adviser).

Solicitor. *See* Solicitor.

LEGAL AID

Charge on property recovered for deficiency of costs—

Duty of assisted person's solicitor—

Enforcement of charge—Exemptions from charge—Discretion of Law Society—Money recovered in proceedings—Assisted person's solicitor under absolute duty to pay money recovered to Law Society forthwith—No question of charge or exemption therefrom arising once payment made—Legal Aid Act 1974, s 9(6)—Legal Aid (General) Regulations 1980, regs 88, 91, 96(d), 97(2). **Simmons v Simmons** [1984] 1 83, CA.

Enforcement of charge—

Discretion of Law Society—Money recovered in proceedings—Court ordering sale of matrimonial home and division of proceeds between husband and wife—Whether wife's share of proceeds 'property recovered or preserved in proceedings'—Whether property recovered or preserved in proceedings including money recovered in proceedings—Legal Aid Act 1974, s 9(6)—Legal Aid (General) Regulations 1980, reg 97(2). **Simmons v Simmons** [1984] 1 83, CA.

Discretion of Law Society—Charge on matrimonial home—Wife recovering lump sum in ancillary proceedings—Whether Law Society having discretion to transfer charge from home to lump sum instead of requiring payment over of lump sum—Legal Aid Act 1974, ss 9(6), 17(9)—Legal Aid (General) Regulations 1980, regs 91(1)(b), 97(2). **R v Law Society, ex p Sexton** [1984] 1 92, CA.

Property recovered or preserved in proceedings—

Compromise of proceedings—Legally-aided party obtaining property under compromise—Property not in issue in proceedings—Whether charge for benefit of legal aid fund extending to property received under compromise notwithstanding that such property never in issue in proceedings—Legal Aid Act 1974, s 9(7). **Van Hoorn v Law Society** [1984] 3 136, QBD.

Costs—

Payment by solicitor personally. *See Solicitor* (Costs—Payment by solicitor personally).

Taxation. *See Taxation of costs, post.*

Taxation of costs—

Agreement as to costs—

Proceedings to which assisted person a party—Assessment of costs by Law Society—Procedure—Legal Aid (General) Regulations 1980, reg 100A. **Practice Direction** [1984] 1 919, Sup Ct Taxing Office.

Proceedings to which assisted person a party—Assessment of costs by Law Society—Matrimonial causes—Procedure—Legal Aid Act 1974, Sch 2—Legal Aid (General) Regulations 1980, reg 100A. **Practice Direction** [1984] 1 919, Sup Ct Taxing Office, **Practice Direction** [1984] 1 944, FamD.

Time limit. *See Costs* (Taxation—Time limit).

LEGITIMATED PERSON

Right of legitimated persons to take interests in property. *See Legitimation* (Right of legitimated persons to take interests to property).

LEGITIMATION

Right of legitimated persons to take interests in property—

Disposition coming into operation after date of legitimation—

Settlement made in 1934 including trust for 'any child' of settlor's son—Plaintiff illegitimate child of settlor's son born in 1936—Plaintiff subsequently legitimated by parents' marriage in 1937—Whether plaintiff entitled to take under 1934 settlement—Whether plaintiff claiming under 'disposition coming into operation after date of legitimation'—Whether plaintiff's interest arising on date of his legitimation—Whether relevant disposition the instrument creating the trust or the trust itself—Legitimacy Act 1926, s 3(1)(b). **Re Billson's Settlement Trusts** [1984] 2 401, CA.

LIBEL AND SLANDER

Injunction—

Interlocutory—

Jurisdiction. *See Injunction* (Interlocutory—Jurisdiction—Libel).

Interlocutory injunction—

Jurisdiction. *See Injunction* (Interlocutory—Jurisdiction—Libel).

LICENCE

Entertainments licence. *See Entertainment* (Public entertainment—Entertainments licence).

Vehicle excise licence. *See Road traffic* (Excise licence).

LICENSING

Occasional permission—

Grant—

Period of permission—Number of permissions required—Occasional permission sought for series of periods on successive days—Performances by operatic society on successive nights—Total time for which permission sought not exceeding 24 hours—Whether separate permissions required for each period—Licensing (Occasional Permissions) Act 1983, s 1(1). **R v Bromley Licensing Justices, ex p Bromley Licensed Victuallers' Association** [1984] 1 794, QBD.

Persons entitled to object to grant of occasional permission—

Whether only police may object—Whether trade association such as a licensed victuallers' association entitled to object—Licensing (Occasional Permissions) Act 1983, s 1(1). **R v Bromley Licensing Justices, ex p Bromley Licensed Victuallers' Association** [1984] 1 794, QBD.

Public entertainments. *See Entertainment* (Public entertainment—Entertainments licence).

LIEN

Solicitor. *See Solicitor* (Lien).

LIFTING OPERATIONS

Construction of a building—

'Undertaking building operation'—

Meaning. *See Building* (Building operations—Lifting operation—Undertaking building operation).

LIMITATION OF ACTION

Concealment of right of action by fraud—

Continued concealment—

Defendant under fiduciary duty to inform plaintiff if security for loan becoming insufficient—Whether defendant's continuing failure to inform plaintiff a continuing breach of defendant's fiduciary duty—Whether continuing breach of duty preventing time from running—Limitation Act 1980, s 32(1)(b). **UBAF Ltd v European American Banking Corp** [1984] 2 226, CA.

Extension of time limit—

Ignorance of claim against employer—

Plaintiff leaving cotton mill because of ill health caused by conditions at work—Plaintiff not knowing that he was suffering from byssinosis as result of inhaling cotton dust—Plaintiff bringing action for damages after expiry of limitation period—Whether plaintiff knowing that condition due in whole or in part to breach of employers' statutory duty at time of leaving employment—Whether plaintiff statute-barred from bringing action—Whether court should exercise discretion to allow action to continue—Whether prejudice to plaintiff if denied right to litigate greater than that suffered by employer if action allowed to continue—Limitation Act 1980, ss 11, 33. **Brooks v J & P Coates (UK) Ltd** [1984] 1 702, QBD.

LIMITATION OF LIABILITY

Shipping. *See* **Shipping** (Limitation of liability).

LIQUIDATOR

Company—

Compulsory winding up—

Provisional liquidator. *See* **Company** (Compulsory winding up—Provisional liquidator).

LITIGANT IN PERSON

Costs—

Taxation. *See* **Costs** (Taxation—Litigant appearing in person).

LIVESTOCK

Buildings used for keeping or breeding livestock—

Rates—

Exemption. *See* **Rates** (Exemption—Agricultural buildings—Buildings used for keeping or breeding livestock).

LOCAL AUTHORITY

Caravan sites—

Provision of caravan sites—

Duty of local authority—Judicial review of authority's decision—Authority providing site in accordance with duty—Site provided proving unsuitable for human habitation—Authority deciding to cease to provide site and not providing alternative site—Secretary of State refusing to direct authority to comply with duty to provide site—Whether gipsy living on existing site having sufficient interest to apply for judicial review of local authority's and Secretary of State's decisions—Whether relevant that authority's area designated as area in which unauthorised camping prohibited—Whether court should grant relief—Caravan Sites Act 1968, ss 6(1), 9, 12(1)—Supreme Court Act 1981, s 31(3)—RSC Ord 53, r 3(7). **R v Secretary of State for the Environment, ex p Ward** [1984] 2 556, QBD.

Child—

Care. *See* **Child** (Care—Local authority).

Compensation—

Acquisition of land by local authority—

Displacement from land. *See* **Compensation** (Displacement from land—Home loss payment—Displacement from dwelling—Land acquired by local authority and held by authority for purpose for which it was acquired).

Decision of local authority—

Validity—

Challenge to validity by way of application for judicial review. *See* **Judicial review** (Challenge to validity of public authority's decision).

Housing—

Generally. *See* **Housing**.

Land—

Development—

Permission for development. *See* **Town and country planning** (Permission for development).

Restrictive covenant affecting land—

Discharge or modification—Acquisition of land by local authority for statutory purposes. *See* **Restrictive covenant affecting land** (Discharge or modification—Acquisition of land by local authority for statutory purposes).

Party to civil proceedings—

Practice. *See* **Practice** (Parties—Local authority).

Planning authority. *See* **Town and country planning**.

Public entertainments—

Licensing. *See* **Entertainment** (Public entertainment—Entertainments licence).

Rates. *See* **Rates**.

Redevelopment of land—

Home loss payment. *See* **Compensation** (Displacement from land—Home loss payment).

Shops—

Sunday closing—

Enforcement. *See* **Shop** (Sunday closing—Enforcement by local authority).

Statutory powers—

Duty to take care in exercising powers. *See* **Negligence** (Duty to take care—Statutory powers—Act performed in exercise of power—Local authority).

Sunday closing of shops—

Enforcement. *See* **Shop** (Sunday closing—Enforcement by local authority).

Town and country planning—

Generally. *See* **Town and country planning**.

LOCAL AUTHORITY (cont)

Water supply—

Duty of local water authority. *See* **Water supply**.

LONDON GAZETTE

Company—

Winding-up order—

Publication in Gazette—Effect. *See* **Company** (Compulsory winding up—Order—Notice—Publication of winding-up order in London Gazette).

LONG VACATION

Family Division—

Practice. *See* **Practice** (Long vacation—Family Division).

MACHINERY

Income tax—

Allowances. *See* **Income tax** (Capital allowances—Machinery or plant).

MAGISTRATES

Affiliation proceedings. *See* **Affiliation**.

Bail. *See* **Criminal law** (Bail).

Child—

Custody. *See* **Minor** (Custody).

Civil liability—

Excess or absence of jurisdiction—

Sentence—Imposing sentence which magistrates had no power to impose—Extent of magistrates' civil liability for acting without jurisdiction—Magistrates' Court Act (Northern Ireland) 1984, s 15. **McC v Mullan** [1984] 3 908, HL.

Malicious action within jurisdiction—

Whether magistrates under civil liability for acting within jurisdiction but maliciously and without reasonable and probable cause—Justices of the Peace Act 1979, s 44. **McC v Mullan** [1984] 3 908, HL.

Deferment of sentence. *See* **Sentence** (Deferment of sentence).

Dismissal of charge—

Judicial review—

Whether on application for judicial review court has power to interfere with magistrates' dismissal of charge. *See* **Proceedings**—Control by judicial review—Magistrates dismissing charge without giving prosecution opportunity to present case, *post*.

Excess or absence of jurisdiction—

Civil liability. *See* **Civil liability**—Excess or absence of jurisdiction, *ante*.

Extradition. *See* **Extradition**.

Information—

Abuse of process—

Two informations arising out of same incident—Second information laid in general terms—Second information capable of being consistent or inconsistent with first information—Prosecution failing to give further particulars of second information—Whether second information should be dismissed as abuse of process of court. **R v Newcastle-upon-Tyne Justices, ex p Hindle, Hindle v Thynne** [1984] 1 770, QBD.

Statement of offence—

Document commencing prosecution charging more than one offence—Preamble containing particulars common to all offences and ensuing paragraphs charging individual offences alleged to have been committed—Whether document containing five informations or one information charging five offences—Whether document valid—Magistrates' Courts Rules 1981, rr 12, 100. **Shah v Swallow** [1984] 2 528, HL.

Trial of information—

Jurisdiction. *See* **Jurisdiction**—Trial of information, *post*.

Jurisdiction—

Access order—

Enforcement of order. *See* **Minor** (Custody—Access—Enforcement of order).

Affiliation order—

Variation. *See* **Affiliation** (Affiliation order—Variation—Jurisdiction of magistrates).

Trial of information—

Validity of information—Laying of information—Time limit—Informations when laid not accompanied by proper certificate of compliance with time limit—Informations in fact laid within time limit—Proper certificate not produced until after expiry of time limit—Magistrate declining jurisdiction to hear informations—Whether magistrate entitled to decline jurisdiction—Gas Act 1972, s 43(2). **R v Clerkenwell Metropolitan Stipendiary Magistrate, ex p DPP** [1984] 2 193, QBD.

Juvenile court—

Care proceedings—

Generally. *See* **Children and young persons** (Care proceedings in juvenile court).

Licensing—

Generally. *See* **Licensing**.

Malicious action within jurisdiction—

Civil liability. *See* **Civil liability**—Malicious action within jurisdiction, *ante*.

Proceedings—

Control by judicial review—

Magistrates dismissing charge without giving prosecution opportunity to present case—Magistrates dismissing information because date of adjournment sought by prosecution not convenient for defence—Prosecutor applying for certiorari to quash dismissal and mandamus directing justices to hear prosecution evidence against defendant—Whether on application for judicial review court has power to interfere with magistrates' dismissal of charge—Whether rehearing of information would place defendant in double jeopardy—Whether relevant that magistrates acted in breach of rules of natural justice in acquitting defendant—Magistrates' Courts Act 1980, s 9(2). **Harrington v Roots** [1984] 2 474, HL.

Sentence—

Deferment of sentence. *See* **Sentence** (Deferment of sentence).

MAGISTRATES (cont)

Sentence (cont)—

Deportation. *See* Sentence (Deportation).

MANSLAUGHTER

Will of victim—

Exclusion from benefit under will. *See* Will (Benefit—Exclusion from benefit—Public policy—Manslaughter).

MAREVA INJUNCTION

See Injunction (Interlocutory—Danger that defendant may transfer assets out of jurisdiction).

MARKETS AND FAIRS

Disturbance—

Levying of rival market—

Market rights conveyed subject to purported reservation of right to hold same-day market, within common law distance, dealing in same commodities—Whether market rights capable of severance by purported reservation—Whether market held in reliance of reservation properly established. **Sevenoaks DC v Pattullo & Vinson Ltd** [1984] 1 544, CA.

Rival market within common law distance—Whether such nuisance actionable without proof of damage. **Sevenoaks DC v Pattullo & Vinson Ltd** [1984] 1 544, CA.

MASTER AND SERVANT

Continuous employment. *See* Employment (Continuity).

Contract of service—

Breach of contract—

Wrongful dismissal. *See* Contract (Damages for breach—Wrongful dismissal).

Duties of employee—

Change in method of work—Computerisation—Inland Revenue introducing computerisation of PAYE scheme to replace manual method of work by tax officers—Whether computerisation changing nature of tax officers' jobs. **Cresswell v Board of Inland Revenue** [1984] 2 713, ChD.

Duty of master—

Safety of employees—

Common law duty to protect employee from foreseeable risk of danger to health—Noise—Danger to hearing—Noise in shipbuilding and ship-repairing yards—Failure to provide protection against noise—Failure to investigate effect of noise levels in yards—Test of liability—Whether liability to be determined according to practice in industry as a whole. **Thompson v Smiths Shiprepairers (North Shields) Ltd** [1984] 1 881, QBD.

Safety of working places—

Coal mine. *See* Coal mining (Statutory duty—Security of road and working place).

Liability of master—

Negligence—

Apportionment of liability—Apportionment between period when employer in breach of duty and period when not in breach—Employees' hearing progressively impaired by stages because of exposure to noise in course of employment—Noise in shipbuilding yards—Employer failing to provide protection to employees—Common practice throughout industry not to provide protection when damage initially caused—Employer later in breach of duty of care in not providing protection—Whether employer's liability to be apportioned between period when employer in breach of duty and period when not in breach. **Thompson v Smiths Shiprepairers (North Shields) Ltd** [1984] 1 881, QBD.

Negligence—

Liability of master. *See* Liability of master—Negligence, *ante*.

Safety of employees. *See* Duty of master—Safety of employees, *ante*.

Suspension of employment. *See* Employment (Suspension).

Trade dispute—

Generally. *See* Trade dispute.

Unfair dismissal. *See* Unfair dismissal.

Wrongful dismissal—

Damages—

Generally. *See* Contract (Damages for breach—Wrongful dismissal).

MEDICAL PRACTITIONER

Family planning clinic—

Advice on contraception. *See* National Health Service (Family planning clinics—Contraception).

Negligence—

Surgery—

Failure to warn of result of surgery—Failure to warn that result of surgery might be naturally reversed—Vasectomy—Failure to warn that patient might regain fertility—Patient's wife becoming pregnant—Wife not aware of pregnancy until too late for abortion—Whether failure to give warning of possible regaining of fertility a breach of surgeon's duty of care—Whether damage consisting of pregnancy or of not knowing of pregnancy until too late for abortion. **Thake v Maurice** [1984] 2 513, QBD.

Test of liability—

Risk of misfortune inherent in treatment proposed by doctor—Doctor's duty to warn of inherent risk of misfortune—Operation to relieve persistent pain in neck resulting in serious disablement of patient—Doctor warning patient of material risks but not of all risks inherent in operation—Whether standard of care required of doctor in giving advice before operation the same as that normally required of medical practitioner in course of diagnosis and treatment—Whether higher standard requiring full disclosure to patient of all details and risks before operation. **Sidaway v Bethlem Royal Hospital** [1984] 1 1018, CA.

Unwanted pregnancy—

Damages. *See* Damages (Unwanted pregnancy—Negligence).

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Function of next friend in legal proceedings—

Responsibility for papers in proceedings—Liability for costs of unsuccessful litigation—Indemnity of costs of proceedings. **Re E (mental health patient)** [1984] 1 309, ChD.

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Action brought on behalf of patient by Official Solicitor—Action brought on behalf of patient by Official Solicitor as next friend—Patient's father wishing to appeal against judgment—Whether papers 'property' of patient—Whether father as new next friend entitled to possession of papers in existence as result of proceedings—Whether displaced next friend entitled to withhold papers—Mental Health Act 1983, ss 95, 96, 112. **Re E (mental health patient)** [1984] 1 309, ChD.

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Enforcement of order—Order of magistrates' court—Jurisdiction of justices to enforce access order by imposing monetary penalty or by committal to prison—Guardianship of Minors Act 1971, s 9—Domestic Proceedings and Magistrates' Courts Act 1978, s 8—Magistrates' Courts Act 1980, s 63(3). **P v W** [1984] 1 866, FamD.

Enforcement of order—Proceedings for contempt—When such proceedings should be instituted—What must be proved in such proceedings—Form of summons—Magistrates' Courts Act 1980, s 63(3). **P v W** [1984] 1 866, FamD.

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Practice—Wardship and guardianship proceedings. *See* **Practice—Wardship and guardianship proceedings—Custody and access, post**.

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Wardship and guardianship proceedings—

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Removal in defiance of court order—

Advice on recovery of custody. *Practice Direction* [1984] 3 640, FamD.

Removal of child normally to be dealt with as contempt of court rather than as subject of criminal prosecution—Criminal prosecution only appropriate for exceptional cases—Private prosecution of parent for kidnapping own child extremely undesirable. *R v D* [1984] 2 449, HL.

Wardship and guardianship cases—

Application for leave to remove child normally to be made to judge—Cases where application may be made to registrar. *Practice Direction* [1984] 2 407, FamD.

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Fraudulent misrepresentation contrasted with deceit—Defendant conceding that plaintiff entitled to rescission for misrepresentation—Whether defendant's concession precluding plaintiff from recovering damages for deceit. *Archer v Brown* [1984] 2 267, QBD.

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Signature of company—Fraudulent misrepresentation made in letter signed by assistant secretary of company—Whether misrepresentation 'signed' by company—Statute of Frauds Amendment Act 1828, s 6. *UBAF Ltd v European American Banking Corp* [1984] 2 226, CA.

Fraudulent misrepresentation—

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MISTAKE

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Exception—

Policy excluding loss or damage occurring while vehicle driven by person other than policy holder—

Policy stating limitation of use of vehicle not breached by delivery of vehicle into custody or control of member of motor trade for repair—Vehicle stolen while being driven by repairer—Whether policy holder entitled to be indemnified—Whether vehicle in custody or control of member of motor trade for purpose of repair when stolen—Whether loss occurring while vehicle being driven or for purpose of being driven in charge of person other than policy holder—Distinction between limitations as to 'use' of vehicle and 'driving' of vehicle. *Samuelson v National Insurance and Guarantee Corp Ltd* [1984] 3 107, QBD.

Rights of third parties against insurers—

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NATIONAL INSURANCE

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Cooking of meals—

Entitlement to allowance—Whether preparation of meals for disabled person constituting 'attention ... in connection with bodily functions'—Social Security Act 1975, s 35(1)(a). *Woodling v Secretary of State for Social Services* [1984] 1 593, HL.

Invalid care allowance—

Entitlement—

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Entitlement—

Residence—Residence in Great Britain—Change of residence outside Great Britain after decision to pay allowance given—Whether continued residence in Great Britain throughout period allowance payable a condition for payment of allowance—Whether power to review decision to pay allowance where change of residence after date of decision to pay allowance—Social Security Act 1975, ss 37A(1)(7), 104(1)(b). *Insurance Officer v Hemmant* [1984] 2 533, CA.

Unemployment benefit—

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Loss of employment due to stoppage of work—Stoppage of work due to trade dispute—Person directly interested in trade dispute—Different groups of workers belonging to different unions employed by same employer—Claimant belonging to union not participating in dispute—Claimant laid off work because of dispute—Whether claimant 'directly interested in the trade dispute'—Whether claimant disqualified for unemployment benefit—Social Security Act 1975, s 19(1). *Presho v Insurance Officer* [1984] 1 97, HL.

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Crown Court—Binding-over order. *See* Crown Court (Binding over—Powers of court—Terms of order—Opportunity to make representations against order).

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Permission for development of land by local authority—Duty to act fairly. *See* Town and country planning (Permission for development—Development by local authority—Duty to act fairly).

Prison board of visitors—

Exercise of disciplinary powers—

Request by prisoner for legal representation or assistance of friend or adviser—Whether prisoner entitled as of right to legal representation or assistance of friend or adviser at disciplinary hearing before board—Whether board having discretion to allow legal representation or assistance of friend or adviser—What matter should be taken into consideration in exercising discretion—Prison Act 1952, s 47(2)—Prison Rules 1964, r 49(2). *R v Secretary of State for Home Dept, ex p Tarrant, R v Wormwood Scrubs Prison Board of Visitors, ex p Anderson* [1984] 1 799, QBD.

Royal Commission—

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Opportunity to rebut proposed findings—Royal commissioner making finding that witnesses had engaged in conspiracy to commit perjury before commission—Witnesses not given opportunity to rebut finding—Whether Royal commission finding made in breach of rules of natural justice. *Mahon v Air New Zealand Ltd* [1984] 3 201, PC.

NAVIGATION

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Exemption clause in time charter—

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NEGLIGENCE

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Damage—

Plaintiff requesting agent or bailee to enter car in auction and account to him for proceeds—Agent or bailee delegating performance to third party—Third party negligently paying proceeds to wrong person—Whether plaintiff entitled to sue agent or bailee in contract and third party in tort in respect of same damage—Whether plaintiff having direct cause of action against third party. **Balsamo v Medici** [1984] 2 304, ChD.

Damage—

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Damages—

Nervous shock. *See* Damages (Personal injury—Nervous shock).

Personal injury. *See* Damages (Personal injury).

Unwanted pregnancy. *See* Damages (Unwanted pregnancy—Negligence).

Doctor—

Generally. *See* Medical practitioner (Negligence).

Duty to take care—

Builder—

Extent of duty—Liability for acts of independent contractor—Defendant agreeing to be contractor for erection of factory building—Defendant sub-contracting erection to independent contractor—Building erected according to faulty design—Whether defendant liable in negligence for failing to see that building properly designed and built. **Cynat Products Ltd v Landbuild (Investments and Property) Ltd, Cynat Products Ltd v West Lindsey District Council** [1984] 3 513, QBD.

Landlord—

Landlord also designer and builder of premises. Landlord's liability—Landlord also designer and builder of premises, *ante*.

Statutory powers—

Act performed in exercise of powers—Local authority—Building operations—Duty of care owed to building owner—Duty of care when granting building regulation approval—Extent of liability—Whether liability extending to liability for economic loss. **Cynat Products Ltd v Landbuild (Investments and Property) Ltd, Cynat Products Ltd v West Lindsey District Council** [1984] 3 513, QBD.

Compliance with statutory requirements—Building operations—Duty of care owed to building owner—Building owner not adhering to approved plans for drainage system—Local authority aware of building owner's non-compliance with its requirements but taking no action to enforce compliance—Drainage system proving defective—Building owner suffering loss by having to replace drains—Whether local authority owing duty of care to building owner to force him to comply with its requirements—London Building Act 1963, Sch 9, Part III, paras 13, 15. **Governors of Peabody Donation Fund v Sir Lindsay Parkinson & Co Ltd** [1984] 3 529, HL.

Compliance with statutory requirements—Non-compliance with statutory requirements—Whether duty to prevent person acting unlawfully to his own detriment. **Governors of Peabody Donation Fund v Sir Lindsay Parkinson & Co Ltd** [1984] 3 529, HL.

Employer—

Duty to protect employee from foreseeable risk of danger to health. *See* Master and servant (Duty of master—Safety of employees—Common law duty to protect employee from foreseeable risk of danger to health).

Employer's liability—

Generally. *See* Master and servant (Liability of master—Negligence).

Immunity from suit—

Sequestrator—

Whether sequestrator immune from all liability for negligence—Whether sequestrator liable only for gross misconduct etc. **IRC v Hoogstraten** [1984] 3 25, CA.

Landlord's liability—

Landlord also designer and builder of premises—

Liability of defendant as landlord and/or designer and builder—Council designing and building flats containing panel of thin and easily breakable glass—Tenant of flat breaking glass and injuring hand—Whether council owing duty of care to tenant as landlord and/or as builder and designer. **Rimmer v Liverpool City Council** [1984] 1 930, CA.

Medical practitioner—

Generally. *See* Medical practitioner (Negligence).

Navigation—

Exemption clause in time charterparty—

Construction. *See* Shipping (Time charterparty—Exceptions—Negligent navigation).

Personal injury—

Damages—

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Generally. *See* Damages (Personal injury).

Special damage—Particulars of claim. *See* Practice (Personal injuries action—Special damage).

Sequestrator—

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Unwanted pregnancy—

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NEXT FRIEND

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Duty of employer to protect employee from foreseeable risk of danger to health—

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Statutory tenancy—

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OBTAINING PROPERTY BY DECEPTION

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Will. *See* **Will** (Option—Option to purchase realty).

Will—

Option or right of pre-emption conferred by will. *See* **Will** (Option).

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PARENT

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PAROLE

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PARTIES

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PARTNERSHIP

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Ranking of claims—

Partnership carried on by two companies—Ranking of creditors of partnership and creditors of individual companies—Whether partnership creditors entitled to preference similar to that available in winding up of individual companies—Bankruptcy Act 1914, s 33(6)—Companies Act 1948, s 319. *Re Rudd & Son Ltd* [1984] 3 225, ChD.

Restraint of trade. *See* **Restraint of trade by agreement** (Partnership).

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PERSON OF UNSOUND MIND

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PERSONAL INJURIES

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See **Damages** (Personal injury).

Interest. *See* **Interest** (Damages—Personal injury).

Special damage—

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Leave to appeal. *See* **House of Lords** (Leave to appeal—Petition for leave to appeal).

PLANNING

Town and country planning. *See* **Town and country planning**.

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Income tax—

Machinery or plant. *See* **Income tax** (Capital allowances—Machinery or plant).

PLATINUM

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POLICE

Assault on constable in execution of duty—

Duty—

Detention of person in street for questioning—Police officer taking hold of woman's arm to question her whether she was a prostitute—Woman assaulting officer—Officer not exercising power of arrest—Whether officer acting in execution of duty when detaining woman—Whether taking hold of woman's arm lawful contact or battery—Street Offences Act 1959, s 1—Police Act 1964, s 51(1). **Collins v Wilcock** [1984] 3 374, QBD.

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Proceeds of crime—

Interlocutory injunction to restrain dealings with proceeds of crime. *See* **Injunction** (Interlocutory—Preservation of proceeds of crime).

Search warrant—

Extent of police powers under warrant—

Police entering premises to search plaintiff's premises for forged documents—Police removing large quantity of documents etc—Whether necessary in relation to each item for police officer to have reasonable cause to believe that it might contain forged material or evidence showing that plaintiff guilty of some other crime—Whether police committing trespass to goods—Forgery Act 1913, s 16(1). **Reynolds v Comr of Police of the Metropolis** [1984] 3 649, CA.

Forged documents or instruments—

Reasonable and probable cause for belief that person having forged documents in his possession—Seizure of person's documents pursuant to warrant—Person alleging police having no reasonable and probable grounds for belief that person having forged documents in his possession—Whether burden of proving that no reasonable and probable cause for belief lay on person alleging tort—Whether for judge to decide on objective test whether there was reasonable and probable cause for belief that forged documents on premises—Forgery Act 1913, s 16(1). **Reynolds v Comr of Police of the Metropolis** [1984] 3 649, CA.

POST

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PRACTICE

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Bankruptcy proceedings. *See* **Bankruptcy** (Practice—Adjournment of bankruptcy proceedings).

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Generally. *See* **Industrial tribunal** (Appeal from tribunal).

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Arbitration award. *See* **Arbitration** (Award—Leave to appeal against award).

County court. *See* **County court** (Appeal—Leave).

Court of Appeal. *See* **Court of Appeal** (Leave to appeal).

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Respondent's notice. *See* **Court of Appeal** (Respondent's notice).

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Case stated. *See* **Case stated**.

Chambers proceedings—

Appeal from master—

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Companies Court. *See* **Companies Court**—Chambers, *post*.

Chancery Division—

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Chambers proceedings—

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PRACTICE (cont)

Chancery Division (cont)—

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Interlocutory applications—

Applications to be made by summons to master. **Practice Direction** [1984] 1 720, ChD.

Causes or matters outside London. **Practice Direction** [1984] 1 750, ChD.

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Stay of proceedings. *See* **Interlocutory proceedings—Stay of proceedings, post.**

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Children—

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Companies Court—

Attendance before registrar—

Compulsory winding up. *See* **Company** (Compulsory winding up—Procedure—Attendance before registrar).

Chambers—

Orders—Orders drafted in chambers normally to be engrossed without reference to parties' solicitors—Orders dismissing winding-up petitions not normally to be drawn up. **Practice Direction** [1984] 2 736, Companies Ct.

Company—

Compulsory winding up—

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Consent order—

Financial provision—

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Costs—

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Family Division. *See* **Family Division—Counsel's fees, post.**

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Discovery. *See* **Discovery.**

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Document—

Restrictive Practices Court—

Marking etc. *See* **Restrictive trade practices** (Court—Practice—Evidence—Affidavits, exhibits, documents).

Evidence—

Restrictive Practices Court. *See* **Restrictive trade practices** (Court—Practice—Evidence).

Execution. *See* **Execution.**

Exhibits—

Restrictive Practices Court. *See* **Restrictive trade practices** (Court—Practice—Evidence—Affidavits, exhibits, documents).

Family Division—

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Filing. *See* **Affidavit** (Filing—Practice—Family Division).

Counsel's fees—

Interlocutory fees—Scale of fees to be allowed on taxation. **Practice Direction** [1984] 1 784, FamD.

Estimated length of hearing—

Notice of estimate. **Practice Direction** [1984] 1 783, FamD.

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Minors—

Removal outside jurisdiction. *See* **Minor** (Removal outside jurisdiction).

Welfare report on child. *See* **Child** (Welfare—Welfare report).

Guardian ad litem—

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Guardianship of minors—

Custody and access. *See* **Minor** (Practice—Wardship and guardianship proceedings—Custody and access).

Removal of minor outside jurisdiction. *See* **Minor** (Removal outside jurisdiction).

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Circumstances in which hearing will be conducted in camera. **R v Chief Registrar of Friendly Societies, ex p New Cross Building Society** [1984] 2 27, CA.

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PRACTICE (cont)

Inspection of property—

Property subject matter of action or in respect of which question arising—

Ex parte application for Anton Piller order—Cross-undertaking as to damages by plaintiff—Whether defendant entitled to raise actions by counterclaim founded on Anton Piller order but not on plaintiff's cross-undertaking—Whether action for abuse of court's process still existing—Whether plaintiff seeking Anton Piller order under duty of care to party affected by order to place full and frank evidence before court. **Digital Equipment Corp v Darkcrest Ltd** [1984] 3 381, ChD.

Privilege against self-incrimination—Exception to rule against self-incrimination—Proceedings for infringement of copyright or passing off—Proceedings for apprehended infringement of copyright or apprehended passing off—Withdrawal of privilege against self-incrimination—Extent of withdrawal—Whether withdrawal extending to any offence or only to offences in connection with infringement of copyright or passing off—Supreme Court Act 1981, s 72(1)(2)(c)(5). **Universal City Studios Inc v Hubbard** [1984] 1 661, CA.

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Interlocutory proceedings—

Applications in Chancery Division. *See* Chancery Division—Interlocutory applications, *ante*.

Stay of proceedings—

Failure by applicant to pay costs of previous similar proceedings—Whether applicant should be allowed to proceed with subsequent proceedings for the same or equivalent relief. **Thames Investment and Securities plc v Benjamin** [1984] 3 393, ChD.

Judgment—

County court. *See* County court (Judgment or order).

Execution. *See* Execution.

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Leave to appeal—

Arbitration proceedings. *See* Arbitration (Award—Leave to appeal against award).

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Minors—

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Order—

Correction—

Accidental slip or omission. *See* Judgment (Order—Correction—Accident slip or omission).

County court—

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Parties—

Adding persons as parties—

Jurisdiction—Addition of person with only commercial interest in outcome of proceedings—Interest of creditor of party to action—Whether Mareva creditor of a party having sufficient interest to be joined as party to action—Whether necessary to have interest directly related to subject matter of proceedings—RSC Ord 15, r 6(2)(b)(ii). **Sanders Lead Co Inc v Entores Metal Brokers Ltd** [1984] 1 857, CA.

Change of name—

Notice to be filed and copies served on other parties—New name to be substituted in title. **Practice Direction** [1984] 1 720, ChD.

Local authority—

Promotion or protection of interests of inhabitants of their area—Prevention of deliberate contravention of Sunday trading laws—Local authority seeking injunction to restrain trader from acting in contravention of law—Whether authority bound to sue on relation of Attorney General—Whether local authority entitled to obtain injunction in own name—Shops Act 1950, ss 47, 71(1)—Local Government Act 1972, s 222(1)(a). **Stoke-on-Trent City Council v B & Q (Retail) Ltd** [1984] 2 332, HL.

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Jurisdiction—Foreign defendant simultaneously disputing jurisdiction of court and applying for stay of proceedings pending outcome of proceedings abroad—Whether application to stay amounting to submission by defendant to jurisdiction of court—Whether court having jurisdiction to consider application to stay before considering question of jurisdiction to deal with merits—Whether court ought first to consider application to stay if decision on jurisdiction can only be reached by deciding issue which is subject of foreign proceedings. *Williams & Glyn's Bank plc v Astro Dinamico Cia Naviera SA* [1984] 1 760, HL.

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Stare decisis—Divisional Court—Application for judicial review—Whether Divisional Court bound to follow earlier decision of another Divisional Court. *R v Greater Manchester Coroner, ex p Tal* [1984] 3 240, QBD.

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Board of visitors—

Exercise of disciplinary powers—Natural justice. *See* Natural justice (Prison board of visitors—Exercise of disciplinary powers).

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Exercise of disciplinary powers—Whether governor's exercise of disciplinary powers open to judicial review. *R v Deputy Governor of Camphill Prison, ex p King* [1984] 3 897, CA.

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Policy formulated without prior consultation with Parole Board—Policy rendering prisoners within certain categories ineligible for parole save in exceptional circumstances—Whether Secretary of State under duty to consult Parole Board before changing parole policy—Whether policy lawful—Criminal Justice Act 1967, ss 59(3)(6), 60(1), 61(1). *Findlay v Secretary of State for the Home Dept* [1984] 3 801, CA & HL.

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Decision to move prisoner from one prison to another—Category A prisoner remanded in London prison pending trial—Prisoner instructing London lawyers to prepare defence—Parents living in London and unable to travel due to ill health—Prisoner removed to a prison 60 miles outside London for operational and security reasons—Whether court could review Secretary of State's decision to move prisoner to another prison—Whether court would inquire into operational or security reasons for removal—Prison Act 1952, s 12(2). *R v Secretary of State for the Home Department, ex p McAvoy*

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Less favourable treatment—Manager instructed not to admit black people to amusement centre—
Manager dismissed for refusing to obey instruction—Whether manager discriminated against personally on racial grounds—Race Relations Act 1976, ss 1(1)(a), 4(2)(c). **Showboat Entertainment Centre Ltd v Owens** [1984] 1 836, EAT.

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- Accommodation works—
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- Exemption—
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Statutory discretion of Secretary of State to reduce grant—Secretary of State notifying local authority of amounts to be paid and dates on which payment to be made—Secretary of State subsequently making decision to reduce amounts and notifying local authority accordingly—Decision quashed on local authority's application for judicial review—Local authority requesting payments in accordance with original notification—Secretary of State refusing and withholding payment pending making second decision—Whether local authority entitled to payment in accordance with original notification—Whether Secretary of State entitled to defer payment pending making second decision—Local Government Act 1974, s 2(2), Local Government, Planning and Land Act 1980, ss 48, 49, 50, Rate Support Grant Regulations 1979, reg 5. *R v Secretary of State for the Environment, ex p Hackney London BC* [1984] 1 956, CA.

Statutory discretion of Secretary of State to reduce grant pending introduction of new legislation—Secretary of State making decision pursuant to transitional provisions to reduce local authority rate support grant—Decision quashed on local authority's application for judicial review—Secretary of State making second decision after ending of year to which transitional provisions applying—Whether such decision valid and effective—Local Government, Planning and Land Act 1980, ss 48, 49, 50. *R v Secretary of State for the Environment, ex p Hackney London BC* [1984] 1 956, CA.

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Restriction on practice in event of partner ceasing to be a partner—Deed of partnership providing that outgoing partner not to solicit or act for clients of firm except for 'any client introduced to the firm' by him—Defendant partner joining sole practitioner practising under name of firm—Other partner dying leaving defendant in sole practice—Defendant later joined by other partners—Whether clients for whom defendant acted in sole practice clients 'introduced to the firm' by defendant—Whether defendant entitled to continue to act for clients for whom he had acted while in sole practice. **Oswald Hickson Collier & Co (a firm) v Carter-Ruck** [1984] 2 15, CA.

Restriction on practice in event of partner ceasing to be partner—Firm of solicitors divided into self-contained departments—Partnership agreement containing restrictive covenant preventing partner from acting for any client of firm if he ceased to be a partner—Goodwill put in at nominal figure in partnership agreement—Whether restrictive covenant too wide—Whether covenant should only apply to department of firm in which outgoing partner employed—Whether firm entitled to protect goodwill when only nominal amount paid for it. **Deacons (a firm) v Bridge** [1984] 2 19, PC.

RESTRICTIVE COVENANT AFFECTING LAND

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Division into lots—

Provision in conveyance of lot that scheme for roads, buildings, lands etc shown on plan attached to conveyance and building and other restrictions imposed on purchaser 'not binding on vendor and vendor entitled to alter or vary same'—Whether provision inconsistent with a building scheme—Whether provision establishing intention by vendor not to create a building scheme. **Re 6, 8, 10 and 12 Elm Avenue, New Milton, ex p New Forest D C** [1984] 3 632, ChD.

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Burden of proof on owner seeking declaration—

Law of Property Act 1925, s 84(2). **Re 6, 8, 10 and 12 Elm Avenue, New Milton, ex p New Forest DC** [1984] 3 625, ChD.

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Acquisition of land by local authority for statutory purposes—

Acquisition by agreement rather than by compulsory purchase—Whether persons entitled to benefit of restrictive covenants can prevent use of land for statutory purposes—Whether acquisition of land by local authority automatically discharging restrictive covenants—Whether persons entitled to restrictive covenants can claim compensation for injurious affection—Compulsory Purchase Act 1965, s 10(2). **Re 6, 8, 10 and 12 Elm Avenue, New Milton, ex p New Forest DC** [1984] 3 632, ChD.

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RESTRICTIVE TRADE PRACTICES

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Evidence—Affidavits, exhibits, documents—Marking—Binding—Sequence—Pagination—Copies—Bundles of documents generally—Effect of failure to comply with rules—RSC Ord 41. **Practice Direction** [1984] 3 126, RPC.

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Capital transfer tax. *See* **Capital transfer tax**.

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Private right of way. *See* **Easement** (Right of way).

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Burden of proof—

Consumption of alcohol after ceasing to drive but before breath test—Evidence before court that defendant had consumed alcohol after ceasing to drive but before breath test—Whether prosecution under burden to negative such evidence—Road Traffic Act 1972, s 6. **R v Newcastle-upon-Tyne Justices, ex p Hindle, Hindle v Thynne** [1984] 1 770, QBD.

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Intention to defraud—Intent—What intent must be proved—Whether necessary to prove intent to avoid paying proper licence fee—Whether sufficient merely to prove intent to deceive person performing public duty—Vehicles (Excise) Act 1971, s 26(1). **R v Terry** [1984] 1 65, HL.

ROAD TRAFFIC (cont)

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Motor insurance. *See* **Motor insurance**.

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Sentence—Principles of sentencing—Circumstances aggravating offence—Circumstances mitigating offence—Cases in which custodial sentence appropriate—Road Traffic Act 1972, s 1. **R v Boswell** [1984] 3 353, CA.

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Proper direction to be given to jury—Defendant suffering from mental illness short of insanity—Whether such condition relevant to defendant's state of mind on charge of reckless driving—Road Traffic Act 1972, s 2. **R v Bell** [1984] 3 842, CA.

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SALE OF GOODS

C i f contract—

Sale by sample—

Certificate of quality—Conclusive evidence clause—Contract for sale by sample providing that trade association's certificate of quality was to be final—Goods discharged at port of discharge in two instalments—Sellers obtaining certificate of quality in respect of first instalment only—Certificate later proved to be inaccurate—Buyers' bank wrongly rejecting conforming documents tendered by sellers—Sellers electing to treat contract as repudiated—Whether buyers entitled to reject whole consignment because second instalment not conforming with contract description—Whether buyers' right to reject goods for nonconformity surviving sellers' rescission of contract—Sale of Goods Act 1893, s 30(1), (3). **Berger & Co v Gill & Duffus** [1984] 1 438, HL.

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Goods supplied to company on credit terms—Clause reserving vendor's title to goods until goods paid for—Company going into receivership before goods paid for—Goods sold to company's customers but not paid for at time of receivership—Effect of reservation of title clause. **Hendy Lennox (Industrial Engines) Ltd v Grahame Puttick Ltd** [1984] 2 152, QBD.

Goods supplied to company on credit terms—Clause reserving vendor's title to goods until goods paid for—Company going into receivership before goods paid for—Goods sold on to company's customers but not paid for at time of receivership—Effect of retention of title clause. **Re Andrabell Ltd (in liq), Airborne Accessories Ltd v Goodman** [1984] 3 407, ChD.

Goods supplied to company on credit terms—Clause reserving vendor's title to goods until goods paid for—Company becoming insolvent before goods paid for—Receiver appointed by debenture holders—Effect of retention of title clause—Whether clause giving rise to 'charge created by ... company' in favour of vendor—Whether charge void against receiver for non-registration—Whether vendor retaining title to unused goods in company's possession—Companies Act 1948, s 95. **Clough Mill Ltd v Martin** [1984] 3 982, CA.

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Reservation of title. *See* **Passing of property**—Vendor retaining property in goods, *ante*.

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SALE OF LAND

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Election whether to affirm or rescind—

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Contract—

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Consent to assignment to be obtained 'where necessary'—Necessary—Tenant contracting to sell residue of term of lease—Landlord's consent required under lease—Consent withheld—Tenant seeking rescission of contract—What facts tenant required to prove—National Conditions of Sale (20th edn), condition 11(5). **Bickel v Courtenay Investments (Nominees) Ltd** [1984] 1 657, ChD.

SALE OF LAND (cont)

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Defect in title—

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SALMON AND FRESHWATER FISHERIES

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SCHOOL

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Claim for wages—

Ranking of claim by master. **Shipping** (Crew—Master—Wages—Claim for wages—Lien for wages—

Whether claim for wages by master ranking *pari passu* with claim of crew).

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SELF-DEFENCE

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SELF-INCRIMINATION

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Exercise of power of deferment—

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Sentencing of offender after expiration of period of deferment—

Duties of court before passing sentence. **R v George** [1984] 3 13, CA.

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EEC national—Recommendation for deportation of EEC national following conviction of criminal offence—Need for court to give reasons for recommendation—Mode of giving reasons—Crown Court—Magistrates' Court—EEC Council Directive 64/221, arts 6, 9(1). **R v Secretary of State for the Home Dept, ex p Dannenberg** [1984] 2 481, CA.

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SERVICE

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Generally. *See* **Master and servant** (Contract of service).

SERVICES

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SETTLEMENT

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Generally. *See* **Capital transfer tax**.

Discretionary trust—

Capital transfer tax. *See* **Capital transfer tax**.

Right to take interest under settlement—

Legitimated person. *See* **Legitimation** (Right of legitimated persons to take interests in property—Disposition coming into operation after date of legitimation—Settlement).

SEX DISCRIMINATION

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Requirement or condition such that proportion of people of one sex who can comply with it considerably smaller than proportion of people of other sex—

Requirement or condition of full-time service—Woman employee employed on full-time basis—

Employee applying to change to work on part-time basis in order to look after baby—Employer refusing application because all employees within grade employed on full-time basis—Whether obligation of full-time service a 'requirement or condition'—Whether proportion of women capable of complying with requirement of full-time service smaller than proportion of men—Whether requirement of full-time service justifiable irrespective of sex of person to whom it applied—Sex Discrimination Act 1975, ss 1(1), 6(2). *Home Office v Holmes* [1984] 3 549, EAT.

Employment—

European Economic Community—

Equality of treatment. *See* European Economic Community (Equality of treatment of men and women).

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Prostitution. *See* Criminal law (Prostitution).

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Admiralty—

Jurisdiction. *See* Admiralty (Jurisdiction).

Baltic charterparty—

Time charterparty—

Exceptions. *See* Time charterparty—Exceptions—Baltic charterparty, *post*.

Bill of lading—

Incorporation of terms of charterparty—

Terms relating to shipment, carriage or delivery of cargo and imposing obligations on 'charterer'—Whether incorporation rendering consignees of cargo as holders of bill of lading when cargo discharged personally liable for obligations of 'charterer'. *Miramar Maritime Corp v Holborn Oil Trading Ltd, The Miramar* [1984] 2 326, HL.

Cargo—

Loss or damage—

Carriage by sea—Damages for breach of contract. *See* Carriage by sea—Damages for breach of contract—Loss of or damage to goods, *post*.

Carriage by sea—

Damages for breach of contract—

Loss of or damage to goods—Cargo shipped from English port—Cargo owners entitled under Hague-Visby Rules to bring action in England—Bill of lading providing for Indonesian court to have exclusive jurisdiction—Carriers entitled to invoke tonnage limitation under Indonesian law—Tonnage limitation providing for lower liability than Hague-Visby Rules—Whether Hague-Visby Rules restricted to package limitation—Whether Hague-Visby Rules applying to contract—Whether exclusive jurisdiction and limitation of liability clauses in bill of lading valid—Carriage of Goods by Sea Act 1971, Sch, art III, para 8, art VIII. *The Benarty* [1984] 3 961, CA.

Charterparty—

Repudiation—

Election whether to accept repudiation. *See* Contract (Repudiation)—Election whether to accept repudiation—Charterparty).

Time charter—

Generally. *See* Time charterparty, *post*.

Crew—

Master—

Wages—Claim for wages—Lien for wages—Whether claim for wages by master ranking *pari passu* with claim of crew—Merchant Shipping Act 1970, s 18. *The Royal Wells* [1984] 3 193, QBD.

Limitation of liability—

Actual fault or privity of owner—

Damage caused by master's negligence in using obsolete chart—Ship's managers failing to ensure that master having up-to-date charts—Vessel damaging pipeline not shown on obsolete chart—Whether actual fault of owners—Whether owners under obligation to ensure efficient management of ship in return for benefits conferred by statutory right to limitation—Whether owners entitled to leave navigation matters to discretion of master—Whether owners under duty to ensure master having up-to-date and corrected charts—Whether owners entitled to limitation of liability. *Grand Champion Tankers Ltd v Norpipe A/S (a corporate body)* [1984] 2 343, HL.

Limitation fund—

Interest—Shipowner paying into court at commencement of limitation action the limitation figure as at date of payment in plus interest thereon from date of collision to date of payment in—Fund invested—Right of shipowner to limit liability to amount of fund in court established in limitation action—Interest accruing on fund—Whether Admiralty Court having discretion to order payment out of accrued interest on fund in addition to fund itself—Merchant Shipping Act 1894, ss 503(1), 504—Merchant Shipping (Liability of Shipowners and Others) Act 1958, s 1—Supreme Court Act 1981, s 35A(1). *Polish Steam Ship Co v Atlantic Maritime Co, The Garden City* [1984] 3 59, CA.

Maritime lien—

Wages—

Crew—Master. *See* Crew—Master—Wages—Claim for wages—Lien for wages, *ante*.

Passenger steamer—

Certificate—

Meaning of 'passenger' for purpose of statutory requirements. *See* Passengers—Ship carrying more than 12 passengers required to have certificate of survey, *post*.

SHIPPING (cont)

Passengers—

Ship carrying more than 12 passengers required to have certificate of survey—

Ship used for sail training excursions for groups of people—Groups participating in sailing vessel—Whether people in groups 'passengers'—Whether people in groups 'engaged ... on the business of the ship'—Merchant Shipping Act 1894, s 271—Merchant Shipping (Safety Convention) Act 1949, s 26(1)(a). **Secretary of State for Trade and Industry v Booth, The Biche** [1984] 1 464, QBD.

Seaman—

Wages—

Claim by master. *See* Crew—Master—Wages—Claim for wages, *ante*.

Time charterparty—

Exceptions—

Baltic charterparty—Damage—Clause exempting owners from liability for 'damage ... whatsoever and howsoever caused'—Whether clause exempting owners from liability for financial damage caused to charterers. **Tor Line Ab v Alltrans Group of Canada Ltd** [1984] 1 103, HL.

Loss or damage arising from negligent navigation—Vessel chartered for lightening operations—Charterparty purporting to incorporate US Carriage of Goods by Sea Act—US Act exempting owners of chartered vessel from liability for 'loss or damage arising or resulting from ... neglect ... in navigation'—Chartered vessel causing damage to charterers' vessel because of negligent navigation—Whether owners of chartered vessel liable for damage—Whether US Act applying to charterparties—Whether US Act only applying in respect of carriage to or from US ports—Whether US Act applying to exempt owners from liability for damage—Carriage of Goods by Sea Act 1936 (US), § 4(2)(a). **Seven Seas Transportation Ltd v Pacifico Union Marina Corp, The Oceanic Amity** [1984] 2 140, CA.

Negligent navigation—Errors of navigation—Charterparty exempting shipowners from liability for 'errors of navigation'—Whether 'errors of navigation' including negligent navigation. **Seven Seas Transportation Ltd v Pacifico Union Marina Corp, The Oceanic Amity** [1984] 2 140, CA.

SHOCK

Nervous shock—

Damages. *See* Damages (Personal injury—Nervous shock).

SHOP

Sunday closing—

Enforcement by local authority—

Promotion or protection of interests of inhabitants of its area—Trader in local authority's area deliberately and flagrantly flouting Sunday closing laws—Fines not acting as deterrent—Local authority applying for injunction to restrain trader from acting in contravention of law—Whether local authority proper plaintiff—Whether proceedings required to be brought by Attorney General—Whether local authority acting to protect interests of inhabitants—Shops Act 1950, ss 47, 71(1)—Local Government Act 1972, s 222(1)(a). **Stoke-on-Trent City Council v B & Q (Retail) Ltd** [1984] 2 332, HL.

SICKNESS BENEFIT

Damages for personal injuries—

Deduction of sickness benefit. *See* Damages (Personal injury—Loss of earnings—Deduction of industrial injury, disablement, sickness or invalidity benefit accruing to injured person).

SIGNATURE

Company. *See* Company (Signature).

SILVER

Hallmarking. *See* Hallmarking.

SMALLHOLDING

Death of tenant—

Succession. *See* Agricultural holding (Tenancy—Death of tenant—Smallholding).

SOCIAL SECURITY

Generally. *See* National insurance.

Unemployment benefit. *See* National insurance (Unemployment benefit).

SOLICITOR

Access to—

Right of prisoner. *See* Prison (Access to legal adviser).

Client—

Fiduciary relationship—

Entitlement to act for client—Clause in partnership deed precluding outgoing partner of firm acting for client in future—Whether clause contrary to public policy. **Oswald Hickson Collier & Co (a firm) v Carter-Ruck** [1984] 2 15, CA.

Costs—

Payment by solicitor personally—

Legal aid—Legal aid certificate granted on basis of counsel's advice—Counsel subsequently reconsidering advice—Solicitor relying completely on counsel's advice—Solicitor failing to inform legal aid committee of change of circumstances of litigation—Application not granted by court—Law Society applying for costs of both parties to be paid by solicitor personally—Whether solicitor having duty to inform legal aid committee of change of circumstances—Whether reliance on advice of properly instructed counsel absolving solicitor from being guilty of dereliction of duty—Legal Aid Act 1974, s 13(1)—RSC Ord 62, r 8(1). **Davy-Chiesman v Davy-Chiesman** [1984] 1 321, CA.

Dishonesty—

Intervention by Law Society in solicitor's practice—

Discovery of documents—Privilege—Production contrary to public interest—Identity of informants to Law Society regarding solicitor's dishonesty—Whether Law Society immune from disclosure of informants' identity. **Buckley v Law Society (No 2)** [1984] 3 313, ChD.

SOLICITOR (cont)

Dishonesty (cont)—

Intervention by Law Society in solicitor's practice (cont)—

Resolution and notice vesting in Law Society moneys held by solicitor—Withdrawal of notice—Whether court having implied power to order withdrawal of notice—Whether when considering withdrawal of notice court confined to considering material available to Law Society when passing resolution—Whether parties free to adduce evidence of matters occurring after date of resolution—Solicitors Act 1974, Sch 1, para 6. *Buckley v Law Society (No 2)* [1984] 3 313, ChD.

Lien—

Retaining lien—

Solicitor discharging himself in course of action—Non-payment of costs—Solicitor entering default judgment for amount of unpaid costs—Solicitor arresting client's vessel to secure payment of costs—Client applying for order that papers in action be handed over to new solicitor instructed by client—Whether arrest of vessel providing alternative security to lien—Whether solicitor waiving lien—Whether exceptional circumstances existing justifying court in refusing to order solicitor to hand over papers to new solicitor. *A v B* [1984] 1 265, QBD.

Partnership—

Restraint of trade by agreement. *See* **Restraint of trade by agreement** (Partnership—Solicitors).

Payment of costs by solicitor personally—

Solicitor acting for legally-aided client. *See* **Costs**—Payment by solicitor personally—Legal aid, *ante*.

Retaining lien. *See* Lien—Retaining lien, *post*.

Trustee in bankruptcy—

Employment of solicitor by trustee. *See* **Bankruptcy** (Trustee in bankruptcy—Employment of solicitor by trustee).

SPECIFIC PERFORMANCE

Sale of land—

Land belonging to company—

Vendor company placed in receivership by debenture holder before completion of contract for sale of land—Whether appointment of receiver destroying purchaser's equitable interest in land under contract for sale—Whether appointment of receiver affording vendor company defence to claim for specific performance of contract. *Freevale Ltd v Metrostore (Holdings) Ltd* [1984] 1 495, ChD.

Refusal of specific performance—

Hardship—Hardship to defendant—Unforeseen change in defendant's circumstances subsequent to date of contract—Unavoidable delay in completing contract not due to either party's fault—Defendant a young married woman with three young children contracting bone cancer resulting in amputation of leg subsequent to date of contract—Defendant becoming dependent on assistance from family and friends living in neighbourhood of house contracted to be sold—Removal to another home elsewhere likely to deprive her of that assistance—Whether hardship entitling court to refuse specific performance of contract. *Patel v Ali* [1984] 1 978, ChD.

SPENT CONVICTION

Rehabilitation of offenders. *See* **Rehabilitation** (Rehabilitation of offenders—Spent conviction).

STARE DECISIS

Precedent—

Generally. *See* **Precedent**.

STATUTE

Comprehensive statutory code—

Power of court to go beyond provisions of code—

Application of principles of private law—Application of principles of private law permissible only where statutory code makes no provision for problem before court. *Pioneer Aggregates (UK) Ltd v Secretary of State for the Environment* [1984] 2 358, HL.

STATUTORY DUTY

Coal mining. *See* **Coal mining** (Statutory duty).

Factory legislation—

Generally. *See* **Factory**.

STATUTORY OFFENCE

Absolute liability. *See* **Criminal law** (Absolute liability—Statutory offence).

STATUTORY POWER

Negligence—

Duty to take care. *See* **Negligence** (Duty to take care—Statutory powers).

STATUTORY TENANCY

Possession—

Recovery by landlord. *See* **Rent restriction** (Possession).

Terms of tenancy—

Terms on termination of contractual long tenancy at low rent. *See* **Landlord and tenant** (Long tenancy at low rent—Continuation as statutory tenancy—Terms of statutory tenancy).

Transfer on termination of marriage. *See* **Divorce** (Property—Protected or statutory tenancy—Transfer of protected or statutory tenancy on termination of marriage).

STAY OF PROCEEDINGS

Arbitration—

Generally. *See* **Arbitration** (Stay of court proceedings).

Criminal proceedings. *See* **Criminal law** (Trial—Stay of proceedings).

Generally. *See* **Practice** (Stay of proceedings).

Interlocutory proceedings. *See* **Practice** (Interlocutory proceedings—Stay of proceedings).

Payment into court. *See* **Practice** (Payment into court—Stay of proceedings).

STEALING

Generally. *See* **Criminal law** (Theft).

STEPCHILD

Family provision. *See* **Family provision** (Stepchild).

STRICT LIABILITY

Absolute offences. *See* **Criminal law** (Absolute liability).

SUB-CONTRACTOR

Building contract. *See* **Building contract** (Sub-contractors).

SUBSTITUTED SERVICE

Bankruptcy notice. *See* **Bankruptcy** (Bankruptcy notice—Service—Substituted service).

SUCCESSION

Agricultural holding—

Tenancy. *See* **Agricultural holding** (Tenancy—Death of tenant).

SUICIDE

Criminal liability for complicity in another's suicide. *See* **Criminal law** (Suicide—Liability for complicity in another's suicide).

SUMMARY JUDGMENT

Costs—

Discretion to award costs—

Plaintiff obtaining leave to enter summary judgment against defendant for damages to be assessed. *See* **Costs** (Order for costs—Discretion—Plaintiff obtaining leave to enter summary judgment against defendant for damages to be assessed).

Generally. *See* **Practice** (Summary judgment).

SUMMING UP

Criminal trial—

Generally. *See* **Criminal law** (Trial—Summing up).

SUNDAY CLOSING

Shop. *See* **Shop** (Sunday closing).

SURGERY

Negligence—

Medical practitioner. *See* **Medical practitioner** (Negligence—Surgery).

Surgeon's contract with patient—

Collateral warranty—

Breach. *See* **Contract** (Warranty—Collateral warranty—Breach—Surgery).

Nature of contract. *See* **Contract** (Surgery—Nature of contract).

SUSPENSION

Employment. *See* **Employment** (Suspension).

TAX

Avoidance—

Capital gains tax. *See* **Capital gains tax** (Tax avoidance scheme).

Capital gains tax. *See* **Capital gains tax**.

Capital transfer tax. *See* **Capital transfer tax**.

Damages—

Wrongful dismissal. *See* **Contract** (Damages for breach—Wrongful dismissal—Taxation).

Income tax—

Generally. *See* **Income tax**.

Value added tax. *See* **Value added tax**.

TELEGRAPHS AND TELEPHONES

Interception of telephone conversation—

Publication of information obtained—

Breach of confidence—Injunction. *See* **Equity** (Breach of confidence—Injunction—Information obtained by illegal telephone tapping).

TENANCY

Agricultural holding. *See* **Agricultural holding**.

Business premises—

Generally. *See* **Landlord and tenant** (Business premises).

Opposition to grant of new tenancy. *See* **Landlord and tenant** (Opposition to grant of new tenancy of business premises).

Joint tenancy—

Equitable charge—

Creation of charge. *See* **Equity** (Charge—Creation of equitable charge—Joint tenancy).

Long tenancy at low rent—

Generally. *See* **Landlord and tenant** (Long tenancy at low rent).

Protected—

Transfer on termination of marriage. *See* **Divorce** (Property—Protected or statutory tenancy—Transfer of protected or statutory tenancy on termination of marriage).

Rent. *See* **Landlord and tenant** (Rent).

Statutory—

Transfer on termination of marriage. *See* **Divorce** (Property—Protected or statutory tenancy—Transfer of protected or statutory tenancy on termination of marriage).

THEFT

Crime. *See* **Criminal law** (Theft).

TIME

Family provision—

Application. *See* **Family provision** (Time for application).

Limitation—

Limitation of action. *See* **Limitation of action**.

TIME (cont)

Limitation (cont)—

Taxation of costs. *See* **Costs** (Taxation—Time limit).

TIME CHARTER

See **Shipping** (Time charterparty).

TOBAGO

Trinidad and Tobago. *See* **Trinidad and Tobago**.

TORT

Negligence. *See* **Negligence**.

Trespass to the person—

Medical practitioner. *See* **Medical practitioner** (Trespass to the person).

TOWN AND COUNTRY PLANNING

District plan—

Planning purpose—

Character and vitality of area—Special uses adding to character and vitality—Plan incorporating planning authority's policy to protect and maintain industrial activities which added to character and vitality of area—Whether policy concerned with protection of individual users rather than development and use of land—Whether authority's policy a genuine planning purpose—Whether personal circumstances of occupiers, personal hardship etc required to be considered as specific exceptions to general policy. **Great Portland Estates plc v Westminster City Council** [1984] 3 744, HL.

Office development—Plan incorporating authority's policy of prohibiting office development outside central zone except in special or exceptional cases—Criteria for special or exceptional circumstances to be outlined in non-statutory guidelines and not in plan—Public inquiry held into objection to policy and inspector making recommendations—Council not accepting recommendations—Whether planning authority's reasons for rejecting recommendations adequate and proper—Whether planning authority's omission of proposals from plan and inclusion of criteria in guidelines contrary to statutory duty to formulate its proposals in plan—Town and Country Planning Act 1971, Sch 4, para 11(2)—Town and Country (Local Plans for Greater London) Regulations 1974, reg 17(1). **Great Portland Estates plc v Westminster City Council** [1984] 3 744, HL.

Duration of planning permission—

Extent of duration—

Whether permission can be abandoned—Whether permission can be extinguished merely by conduct—Whether commercial decision to terminate permitted operations on land extinguishing permission in absence of term in permission to that effect—Town and Country Planning Act 1971, s 33(1). **Pioneer Aggregates (UK) Ltd v Secretary of State for the Environment** [1984] 2 358, HL.

Established use—

Street cleansing depot—

Premises used by local authority as street cleansing depot—Whether established use determined by reference to identity of occupier or purpose for which vehicles and plant stored in depot are used outside depot—Whether established use limited to street cleansing depot. **Westminster City Council v British Waterways Board** [1984] 3 737, HL.

Office development—

District plan. *See* **District plan**—Planning purpose—Office development, *ante*.

Permission for development—

Development by local authority—

Development by local authority of land owned by it or in respect of which it is local planning authority—Application for permission—Procedure to be followed—Town and Country Planning Act 1971, ss 26, 270—Town and Country Planning General Regulations 1976, reg 4. **Steeple v Derbyshire CC** [1984] 3 468, QBD.

Duty to act fairly—Local authority entering into contract with company for development of authority's land—Authority granting itself planning permission—Whether decision to grant planning permission could be seen to be fairly made—Whether decision made in breach of rules of natural justice. **Steeple v Derbyshire CC** [1984] 3 468, QBD.

Duty to act fairly—Application to district council for planning permission for proposed development—Prior to application being considered majority group on council adopting policy of supporting proposed development—Whether council's decision on application pre-empted by policy—Whether council's decision would be vitiated by bias—Whether council should be prohibited from hearing application—Town and Country Planning Act 1971, s 29(2). **R v Amber Valley DC, ex p Jackson** [1984] 3 501, QBD.

Duration of planning permission. *See* **Duration of planning permission, ante**.

Use—

Established use. *See* **Established use, ante**.

Use of land—

District plan. *See* **District plan, ante**.

TRADE

Protection of trading interests—

Damage to United Kingdom trading interests—

Conflict of laws—Foreign measures which threaten to damage United Kingdom trading interests—Conditions under which Secretary of State may make order or direction prohibiting compliance with foreign measures—Measures—What constitutes foreign 'measures' which threaten to damage United Kingdom trading interests—Protection of Trading Interests Act 1980, ss 1, 2(1)—Protection of Trading Interests (US Antitrust Measures) Order 1983. **British Airways Board v Laker Airways Ltd** [1984] 3 39, HL.

Restraint of trade—

Restraint of trade by agreement. *See* **Restraint of trade by agreement**

Trade description. *See* **Trade description**.

Trade mark. *See* **Trade mark**.

TRADE DESCRIPTION

False or misleading statement as to services etc—

Making a statement—

When offence committed—Statement contained in defendant's travel brochure—Defendant unaware that statement false at date of publication of brochure—Defendant subsequently learning of falsity—Steps taken to rectify mistake before statement read by complainant—Whether offence committed—Trade Descriptions Act 1968 s 14(1)(a). *Wings Ltd v Ellis* [1984] 3 577, HL.

False trade description—

Application in course of trade or business—

Self-employed courier using car almost exclusively for purpose of his business—Car traded in with false description—Whether car traded in 'in course of a trade or business'—Trade Descriptions Act 1968, s 1(1). *Davies v Sumner* [1984] 3 831, HL.

TRADE DISPUTE

Acts done in contemplation or furtherance of trade dispute—

In contemplation or furtherance of—

Secondary action in furtherance of dispute—Validity of secondary action—Contract for supply of goods or services between employer who is party to dispute and employer to whom secondary action relates—Goods or services supplied to associated company of employer who was party to dispute—Union action aimed at disrupting supply of goods or services to associated company—Whether secondary action by union immune from action in tort—Trade Union and Labour Relations Act 1974, s 13(2)—Employment Act 1980, s 17(3). *Dimbleby & Sons Ltd v National Union of Journalists* [1984] 1 751, HL.

Meaning of trade dispute—

Dispute relating 'wholly or mainly' to termination of employment—Union campaigning against privatisation of Post Office telecommunications and licensing of private telecommunications systems—Plaintiff granted licence to operate private system—Union instructing members not to interconnect plaintiff's system to Post Office system—Whether a dispute between Post Office and employees—Whether dispute relating wholly or mainly to termination of employees' employment—Trade Union and Labour Relations Act 1974, ss 13(1), 29(1)—Employment Act 1982, s 18(1). *Mercury Communications Ltd v Scott-Garner* [1984] 1 179, CA.

TRADE MARK

Hallmark. *See* Hallmarking.

Registered users—

Trafficking in trade mark—

Application for registration of trade mark and registration of person as registered user—Proprietor not using or proposing to use mark in connection with goods similar to those to be marketed by licensees—Licence agreements including quality control provisions exercisable by proprietor over licensees' goods—Whether grant of proprietor's applications tending to facilitate 'trafficking' in trade mark—Trade Marks Act 1938, s 28(6). *Re American Greetings Corp's Application* [1984] 1 434, HL.

TRADE UNION

Trade dispute—

Generally. *See* Trade dispute.

TRANSPORT

Railway. *See* Railway.

TRESPASS TO THE PERSON

Medical practitioner. *See* Medical practitioner (Trespass to the person).

TRIAL

Criminal—

Generally. *See* Criminal law (Trial).

Jury. *See* Jury.

TRIBUNAL

Industrial tribunal. *See* Industrial tribunal.

See Industrial tribunal).

Royal Commission—

Natural justice. *See* Natural justice (Royal Commission).

TRINIDAD AND TOBAGO

Constitutional law—

Entrenched provisions of constitution—

Effect of entrenched provisions—Entrenchment by infection—Whether entrenching of specific provisions having effect of impliedly entrenching other provisions—Constitution of the Republic of Trinidad and Tobago 1976, ss 49, 54. *Attorney General of Trinidad and Tobago v McLeod* [1984] 1 694, PC.

Human rights and freedoms—

Right to protection of the law—Whether non-compliance with entrenching provisions in constitution amounting to infringement of 'right to protection of the law'—Whether access to courts to challenge validity of statute sufficient 'protection of the law'—Constitution of the Republic of Trinidad and Tobago 1976, ss 4(b), 54(3). *Attorney General of Trinidad and Tobago v McLeod* [1984] 1 694, PC.

TROUT

See Fish (Salmon and trout).

TRUST AND TRUSTEE

Accumulation of income. *See* Accumulation.

Bankruptcy—

Trustee in bankruptcy. *See* Bankruptcy (Trustee in bankruptcy).

Capital transfer tax. *See* Capital transfer tax.

TRUST AND TRUSTEE (cont)

Constructive trust—
Unmarried couple—

Principles applicable in determining beneficial interests in property—Man acquiring house in his sole name—Mistress not directly contributing to purchase price or mortgage instalments—Couple living in house with their children for 17 years—Mistress looking after well-being of family by performing domestic duties and caring for children—Whether mistress entitled to beneficial interest—Whether common intention that mistress was to have beneficial interest. *Burns v Burns* [1984] 1 244, QBD.

Duty of trustee—

Duty towards beneficiary—

Investments—Power of investment—Pension fund—Mineworkers' pension scheme—Scheme authorising overseas investment and investment in energy resources competing with coal—Trustees appointed by mineworkers seeking to restrict investments to investments in Britain and in industries not competing with coal—Whether trustees of pension fund subject to general law relating to trustees—Whether trustees entitled to prohibit particular investment for social or political reasons. *Cowan v Scargill* [1984] 2 750, ChD.

Investment clause—

Variation of trusts by the court. *See* Variation of trusts (Variation by the court—Investment clause).

Investments—

Duty of trustee to beneficiary. *See* Duty of trustee—Duty towards beneficiary—Investments, *ante*.

Trust property—

Accumulation of income. *See* Accumulation.

Variation of trusts. *See* Variation of trusts.

TRUSTEE IN BANKRUPTCY

See Bankruptcy (Trustee in bankruptcy).

UNDERLEASE

Forfeiture of lease—

Relief against forfeiture. *See* Landlord and tenant (Relief against forfeiture—Underlessee).

UNEMPLOYMENT BENEFIT

Generally. *See* National insurance (Unemployment benefit).

UNFAIR DISMISSAL

Complaint—

Industrial tribunal—

Procedure. *See* Industrial tribunal (Procedure—Complaint of unfair dismissal).

Continuity of employment. *See* Employment (Continuity).

Determination whether dismissal fair or unfair—

Reasons justifying dismissal—

Determination of whether employer acted reasonably—Employer terminating employee's employment at instance of third party—Employee refusing employer's offer of alternative lower-paid work—Dismissal to be determined in accordance with equity and substantial merits of the case—Whether tribunal to have regard to any injustice suffered by the employee—Employment Protection (Consolidation) Act 1978, s 57. *Dobie v Burns International Security Services (UK) Ltd* [1984] 3 333, CA.

UNMARRIED COUPLE

Property—

Constructive trust. *See* Trust and trustee (Constructive trust—Unmarried couple).

UNWANTED PREGNANCY

Negligence—

Damages. *See* Damages (Unwanted pregnancy—Negligence).

VALUE ADDED TAX

Zero-rating—

Building works—

Alteration of building—What amounts to 'alteration'—Whether any limitation on what work to fabric of building may amount to 'alteration'—Finance Act 1972, Sch 4, Group 8, item 2. *Customs and Excise Comrs v Viva Gas Appliances Ltd* [1984] 1 112, HL.

VARIATION OF TRUSTS

Variation by the court—

Investment clause—

Extension of powers of investment—Extension of powers beyond those permitted under Trustee Investments Act 1961—Factors to be taken into consideration—Whether changes in investment market and practice entitling court to vary investment powers by giving trustees wider powers of investment than those permitted under Trustee Investments Act 1961—Trustee Investments Act 1961. *Trustees of the British Museum v Attorney General* [1984] 1 337, ChD.

VASECTOMY

Contract regarding operation—

Nature of contract. *See* Contract (Surgery—Nature of contract—Vasectomy).

VENTILATION

Factory. *See* Factory (Ventilation).

VISITORS

Prison board of visitors—

Exercise of disciplinary powers—

Natural justice. *See* Natural justice (Prison board of visitors—Exercise of disciplinary powers).

VOLUNTARY WINDING UP

Company. *See* Company (Voluntary winding up).

WAGES

Seaman—

Claim for wages—

Claim by master. **Shipping** (Crew—Master—Wages—Claim for wages).

WAIVER

Privilege—

Discovery of documents. *See* **Discovery** (Privilege—Waiver of privilege).

WARD OF COURT

Appeal—

Practice. *See* **Practice**—Appeal, *post*.

Contempt of court in wardship proceedings—

Removal of ward from jurisdiction without leave—

Proceedings for punishment of contempt—Proceedings for punishment of contempt—Whether taking ward out of jurisdiction without consent constituting criminal contempt—Whether triable on indictment. **R v D** [1984] 1 574, CA.

Custody—

Care and control and access—

Practice. *See* **Minor** (Practice—Wardship and guardianship proceedings—Custody—Care and control and access).

Guardian ad litem—

Two parties requiring appointment of guardians ad litem—

Appointment of Official Solicitor and of near relative or divorce court welfare officer. **Practice Direction** [1984] 1 69, FamD.

Local authority—

Child in care. *See* **Child** (Care—Local authority—Wardship proceedings).

Practice—

Appeal—

Cases involving transfer of child—Hearing of appeal—Listing—Appeal to be heard within 28 days where order for transfer stayed—Duty of counsel who conducted case at trial—Duty of counsel's clerks and solicitors. **Re W (minors)** [1984] 3 58, CA.

Two parties requiring appointment of guardians ad litem. *See* **Guardian ad litem**—Two parties requiring appointment of guardians ad litem, *ante*.

Removal of ward from jurisdiction—

Generally. *See* **Minor** (Removal outside jurisdiction).

WARRANT

Search warrant—

Generally. *See* **Police** (Search warrant).

WARRANTY

Generally. *See* **Contract** (Warranty).

WATER AND WATERCOURSES

Fishing rights—

European Economic Community. *See* **European Economic Community** (Fishing rights).

Supply of water. *See* **Water supply**.

WATER AUTHORITY

Charges. *See* **Water supply** (Charges).

WATER SUPPLY

Charges—

Power of water authority to make charges—

Charges for services performed—Liability of person who has not received services—Power of water authority to make such charges for services performed, facilities provided or rights made available by them as they think fit—Sewerage services—Roof drainage—Occupier of shop—Shop not connected to public sewers—Occupier not receiving sewerage services—Surface water from roof on hereditament above occupier's shop draining into water authority's sewer—Whether water authority having power to impose charge on occupier for sewerage and drainage services provided by authority—Water Act 1973, s 130(1), (1A). **South West Water Authority v Rumble's** [1984] 2 240, CA.

WELFARE REPORT

Child—

Practice—

Family Division. *See* **Child** (Welfare—Welfare report).

WIDOW

Damages under Fatal Accidents Acts—

Extent of dependency. *See* **Fatal accident** (Damages—Dependency—Widow).

Provision for widow out of husband's estate. *See* **Family provision** (Widow).

WILL

Benefit—

Exclusion from benefit—

Public policy—Manslaughter—Beneficiary convicted of manslaughter of testator—Whether beneficiary entitled to claim reasonable financial provision out of estate of deceased—Effect of statute coming into effect after proceedings commenced giving court discretion to make financial provision for persons convicted of unlawful killing—Inheritance (Provision for Family and Dependents) Act 1975, s 2—Forfeiture Act 1982, s 2. **Re Royse (decd), Royse v Royse** [1984] 3 339, CA.

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